

Section I

Notices of Development of Proposed Rules and Negotiated Rulemaking

DEPARTMENT OF ENVIRONMENTAL PROTECTION

RULE NO.: 62-621.300
RULE TITLE: Permits

PURPOSE AND EFFECT: The Department is initiating rulemaking to revise and update forms for the existing Generic Permit for Phase II Municipal Separate Storm Sewer Systems (MS4) for consistency with current US Environmental Protection Agency (EPA) requirements and to clarify permit language.

SUBJECT AREA TO BE ADDRESSED: Department is developing amendments to the Generic Permit as noted herein under Rule 62-621.300, F.A.C. This workshop will be broadcast via webinar. Parties can register to attend the webinar via their personal computers with audio by telephone (regular long distance telephone charges will apply) or by speakers connected to their computer (no telephone charges will apply). Webinar registration is via <https://www2.gotomeeting.com/register/455022386>. Alternatively, persons may attend the workshop and view the webinar at the referenced location where staff will be present to accept comments.

RULEMAKING AUTHORITY: 403.061, 403.087, 403.088, 403.0885, 403.814 FS.

LAW IMPLEMENTED: 403.061, 403.087, 403.088, 403.0877, 403.814 FS.

A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW:

DATE AND TIME: April 25, 2013, 9:00 a.m.

PLACE: Florida Department of Environmental Protection, Bob Martinez Center, 6th Floor, Room 609, 2600 Blair Stone Road, Tallahassee, Florida 32399

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Robin Babin, Department of Environmental Protection, (MS 2500), 2600 Blair Stone Rd., Tallahassee, FL 32399-2400, (850)245-7543, robin.babin@dep.state.fl.us. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Allen Hubbard, Department of Environmental Protection, (MS 2500), 2600 Blair Stone Rd, Tallahassee, FL 32399-2400, (850)245-7606, allen.hubbard@dep.state.fl.us

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS AVAILABLE AT NO CHARGE FROM THE CONTACT PERSON LISTED ABOVE.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

RULE NO.: 62-624.810
RULE TITLE: Permit Application Procedures for Phase II MS4s

PURPOSE AND EFFECT: The Department is initiating rulemaking to update the existing Generic Permit for Phase II Municipal Separate Storm Sewer Systems (MS4) for consistency with current EPA requirements.

SUBJECT AREA TO BE ADDRESSED: Department is developing amendments to the Generic Permit noted herein under Rules 62-624.810 and 62-624.820, F.A.C. Annual Report for Phase II MS4s. This workshop will be broadcast via webinar. Parties can register to attend the webinar via their personal computers with audio by telephone (regular long distance telephone charges will apply) or by speakers connected to their computer (no telephone charges will apply). Webinar registration is via <https://www2.gotomeeting.com/register/455022386>. Alternatively, persons may attend the workshop and view the webinar at the referenced location where staff will be present to accept comments.

RULEMAKING AUTHORITY: 403.061, 403.087, 403.088, 403.0885, 403.814 FS.

LAW IMPLEMENTED: 403.061, 403.087, 403.088, 403.0877, 403.814 FS.

A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW:

DATE AND TIME: April 25, 2013, 9:00 a.m.

PLACE: Florida Department of Environmental Tallahassee, Bob Martinez Center, 6th Floor, Room 609, 2600 Blair Stone Road, Tallahassee, Florida 32399

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Robin Babin, Department of Environmental Protection, (MS 2500), 2600 Blair Stone Rd., Tallahassee, FL 32399-2400, (850)245-7543, robin.babin@dep.state.fl.us. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Allen Hubbard, Department of Environmental Protection, (MS 2500), 2600 Blair Stone Rd, Tallahassee, FL 32399-2400, (850)245-7606, allen.hubbard@dep.state.fl.us

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS AVAILABLE AT NO CHARGE FROM THE CONTACT PERSON LISTED ABOVE.

Section II Proposed Rules

FLORIDA PAROLE COMMISSION

Parole Commission Qualifications Committee

RULE NOS.:	RULE TITLES:
23A-1.001	Definitions
23A-1.002	Committee Description and Purpose
23A-1.003	Procedures for Applications
23A-1.004	Plan for Evaluation of Qualifications
23A-1.005	Rulemaking
23A-1.006	Notice of Meeting or Workshop
23A-1.007	Agenda of Meetings and Workshops
23A-1.008	Emergency Meetings

PURPOSE AND EFFECT: Repeal Chapter 23A-1 Rules as procedural and duplicative of statute.

SUMMARY: Chapter 23A-1 are the procedural rules for the Parole Qualifications Committee.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 947.07 FS.

LAW IMPLEMENTED: 120.53; 947.02 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAR.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Sarah Rumph, General Counsel

THE FULL TEXT OF THE PROPOSED RULE IS:

23A-1.001 Definitions.

Rulemaking Specific Authority 947.07 FS. Law Implemented 947.02 FS. History–New 1-16-84, Formerly 23A-1.01, Amended 12-12-94, Repealed.

23A-1.002 Committee Description and Purpose.

Rulemaking Specific Authority 947.07 FS. Law Implemented 947.02 FS. History–New 1-16-84, Formerly 23A-1.02, Amended 12-12-94, Repealed.

23A-1.003 Procedures for Applications.

Rulemaking Specific Authority 947.07 FS. Law Implemented 947.02 FS. History–New 1-16-84, Formerly 23A-1.03, Amended 12-12-94, Repealed.

23A-1.004 Plan for Evaluation of Qualifications.

Rulemaking Specific Authority 947.07 FS. Law Implemented 947.02 FS. History–New 1-16-84, Formerly 23A-1.04, Amended 12-12-94, Repealed.

23A-1.005 Rulemaking.

Rulemaking Specific Authority 947.07 FS. Law Implemented 947.02 FS. History–New 1-16-84, Formerly 23A-1.05, Amended 12-12-94, Repealed.

23A-1.006 Notice of Meeting or Workshop.

Rulemaking Specific Authority 947.07 FS. Law Implemented 947.02 FS. History–New 1-16-84, Formerly 23A-1.06, Amended 12-12-94, Repealed.

23A-1.007 Agenda of Meetings and Workshops.

Rulemaking Specific Authority 947.07 FS. Law Implemented 120.53, 947.02 FS. History–New 1-16-84, Formerly 23A-1.07, Amended 12-12-94, Repealed.

23A-1.008 Emergency Meetings.

Rulemaking Specific Authority 947.07 FS. Law Implemented 120.53, 947.02 FS. History–New 1-16-84, Formerly 23A-1.08, Amended 12-12-94, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Sarah Rumph, General Counsel

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Tena Pate, Chair

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 5, 2013

ADMINISTRATION COMMISSION

RULE NO.:	RULE TITLE:
28-101.001	Statement of Agency Organization and Operation

PURPOSE AND EFFECT: The proposed rule amendment requires an agency to post and maintain a current statement of agency organization and operation on the agency’s website pursuant to a statutory requirement.

SUMMARY: The rule amendment is to comply with the statutory requirement with regard to posting an agency’s statement of agency organization and operation on its website.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: The Administration Commission has determined that the proposed rule is not expected to require legislative ratification based on the information expressly relied upon and described herein: 1) no requirement for a SERC was triggered under Section 120.54(3)(b) and Section 120.54(1), Florida Statutes; and 2) there are no adverse impacts or regulatory costs of the rule which will exceed any of the criteria established in Section 120.541(2)(a), Florida Statutes.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 14.202, 120.54(5) FS.

LAW IMPLEMENTED: 120.54(5) FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAR.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Barbara Leighty, Office of the Governor, Room 1801, The Capitol, Tallahassee, Florida, (850)717-9513

THE FULL TEXT OF THE PROPOSED RULE IS:

28-101.001 Statement of Agency Organization and Operation.

(1) through (3) No change.

(4) An agency shall publish a statement of organization and operation on the agency's website.

Rulemaking Authority 14.202, 120.54(5) FS. Law Implemented 120.54(5) FS. History--New 4-1-97, Amended 1-15-07, 12-24-07, 2-5-13,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Administration Commission

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Administration Commission

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 7, 2013

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: March 12, 2013

ADMINISTRATION COMMISSION

RULE NO.: 28-109.005
 RULE TITLE: Notice

PURPOSE AND EFFECT: The proposed rule amendments are to amend rule language to conform to present technology with respect to providing e-mail addresses.

SUMMARY: The rule is amended to conform to present technology.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: The Administration Commission has determined that the proposed rule is not expected to require legislative ratification based on the information expressly relied upon and described herein: 1) no requirement for a SERC was triggered under Section 120.54(3)(b) and Section 120.54(1), Florida Statutes; and 2) there are no adverse impacts or regulatory costs of the rule which will exceed any of the criteria established in Section 120.541(2)(a), Florida Statutes.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 14.202, 120.54(5) FS.

LAW IMPLEMENTED: 120.54(5) FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAR.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Barbara Leighty, Office of the Governor, Room 1801, The Capitol, Tallahassee, Florida, (850)717-9513

THE FULL TEXT OF THE PROPOSED RULE IS:

28-109.005 Notice.

When the agency chooses to conduct a CMT proceeding, it shall provide notice in the same manner as required for a non-CMT proceeding, and shall plainly state that such proceeding is to be conducted utilizing CMT and identify the specific type of CMT to be used. The notice shall describe how interested persons may attend and shall include:

(1) through (2) No change.

(3) An address, e-mail address, and telephone number where an interested person may write or call for additional information.

(4) An address, e-mail address, and designated person to whom a person may submit written or other physical evidence which he or she intends to offer into evidence during the CMT proceedings.

Rulemaking Authority 14.202, 120.54(5) FS. Law Implemented 120.54(5) FS. History—New 4-1-97, Amended 1-15-07, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Administration Commission

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Administration Commission

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 7, 2013

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: March 12, 2013

WATER MANAGEMENT DISTRICTS

South Florida Water Management District

RULE NO.:	RULE TITLE:
40E-0.113	Variances from Specified Review Criteria for Environmental Resource Permits

PURPOSE AND EFFECT: The South Florida Water Management District (“District”) proposes to repeal this rule to be consistent with Section 373.4131, F.S. (2012), which requires the Florida Department of Environmental Protection (“DEP”), in coordination with the five water management districts (“WMDs”), to develop environmental resource permit (“ERP”) rules, which will be applicable statewide. To implement Section 373.4131, F.S., DEP has published a Notice of Rule Development in the *Florida Administrative Register* and has posted preliminary draft rule text on its website at <http://www.dep.state.fl.us/water/wetlands/swerp/index.htm>.

SUMMARY: This rule is proposed for repeal as its substance will be addressed in Chapter 62-330, F.A.C.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the Agency.

There will be no adverse impact on small business as the District is proposing to repeal this rule.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: The District has completed for the Governor’s Office of

Fiscal Accountability and Regulatory Reform (“OFARR”) the form entitled “Is a SERC Required?” and a summary of the proposed rule amendments, which are both available upon request. Based on the completed form entitled “Is a SERC Required?”, and the summary and analysis performed by the District in preparing and completing those documents, the proposed rule repeal is not expected to require legislative ratification pursuant to subsection 120.541(3), F.S.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 373.044, 373.113, 373.171, 373.414(17) FS.

LAW IMPLEMENTED: 373.079, 373.083, 403.201 FS.

A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW:

DATE AND TIME: May 9, 2013, 9:00 a.m.

PLACE: South Florida Water Management District Headquarters, B-1 Auditorium, 3301 Gun Club Road, West Palm Beach, FL 33406

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: South Florida Water Management District Clerk, 1(800)432-2045, ext. 2087 or (561)682-2087. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Anita R. Bain, Environmental Resource Permitting Bureau Chief, South Florida Water Management District, 3301 Gun Club Road, West Palm Beach, FL 33406, 1(800)432-2045, ext. 6866 or (561)682-6866, abain@sfwmd.gov. For procedural questions, contact Jan Sluth, Paralegal, South Florida Water Management District, 3301 Gun Club Road, West Palm Beach, FL 33406, 1(800)432-2045, ext. 6299, or (561)682-6299, jsluth@sfwmd.gov. Information on this rulemaking process can also be found at <http://www.sfwmd.gov/rules>

THE FULL TEXT OF THE PROPOSED RULE IS:

40E-0.113 Variances from Specified Review Criteria for Environmental Resource Permits.

Rulemaking Authority 373.044, 373.113, 373.171, 373.414(17) FS. Law Implemented 403.201 FS. History—New 9-2-98, Amended 6-12-00, 6-26-02, Repealed_____.

This rule will become effective on July 1, 2013, or upon the date that amendments to Chapter 62-330, F.A.C., proposed by the Department of Environmental Protection to implement the statutory mandate in Section 373.4131, F.S. (2012), take effect, whichever is later.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Anita R. Bain, Environmental Resource Permitting Bureau Chief

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: South Florida Water Management District Governing Board

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 14, 2013

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: September 28, 2012

WATER MANAGEMENT DISTRICTS

South Florida Water Management District

RULE NOS.:	RULE TITLES:
40E-1.602	Permits Required
40E-1.603	Application Procedures for Processing Permit Applications or Notices of Intent
40E-1.6065	Consideration of Intended Agency Decision on Permit Applications
40E-1.607	Permit Application Processing Fees
40E-1.6107	Transfer of Environmental Resource, Surface Water Management, or Water Use, or Wetland Resource Permit
40E-1.615	Coordinated Agency Review Procedures for the Florida Keys Area of Critical State Concern
40E-1.659	Forms and Instructions
40E-1.715	Civil Penalty Calculation

PURPOSE AND EFFECT: The South Florida Water Management District (“District”) proposes to amend the proposed rules to be consistent with Section 373.4131, F.S. (2012), which requires the Florida Department of Environmental Protection (“DEP”), in coordination with the five water management districts (“WMDs”), to develop environmental resource permit (“ERP”) rules, which will be applicable statewide. These rules rely primarily upon existing rules of DEP and the WMDs, but were revised where necessary to achieve a more consistent, effective, and streamlined approach in the state’s ERP program. To implement Section 373.4131, F.S., DEP has published a Notice of Rule Development in the *Florida Administrative Register* and has posted preliminary draft rule text on its website at <http://www.dep.state.fl.us/water/wetlands/swerp/index.htm>. DEP’s proposed rulemaking for Chapter 62-330, F.A.C., will necessitate changes to the District’s Chapter 40E-1, F.A.C.

SUMMARY: To make the District’s rules consistent with DEP’s Chapter 62-330, F.A.C., the District proposes the following: (1) delete provisions and listed forms that will be included in Chapter 62-330, F.A.C.; (2) insert cross references to Chapter 62-330, F.A.C., and delete cross references to Title 40E rules that are being repealed; (3) reference Chapter 62-330, F.A.C., for the timeframe for action on environmental

resource permits; (4) revise permit application fee categories to add some new additional environmental resource permit applicant fee categories and make the categories consistent statewide; and (5) revise Form 0483 to delete reference to Rule 40E-4.351, F.A.C., which is proposed to be repealed.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has been prepared by the Agency for Rule 40E-1.607, F.A.C. The Agency has also determined that Rules 40E-1.602, 40E-1.603, 40E-1.6065, 40E-1.607, 40E-1.6107, 40E-1.615, 40E-1.659, and 40E-1.715, F.A.C., will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the Agency for these rules as the repeal of these rules will have no adverse impact on small business.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: The District has completed for the Governor’s Office of Fiscal Accountability and Regulatory Reform (OFARR) the form entitled “Is a SERC Required?” for Rules 40E-1.607, 40E-1.602, 40E-1.603, 40E-1.6065, 40E-1.607, 40E-1.6107, 40E-1.615, 40E-1.659, and 40E-1.715, F.A.C., and has prepared a summary of the proposed rule amendments, which are both available upon request. Based on the completed forms entitled “Is a SERC Required?” and summary and analysis performed by the District in preparing and completing those documents, the proposed rule amendments are not expected to require legislative ratification pursuant to subsection 120.541(3), F.S.

Any person who wishes to provide information regarding the statement of estimated regulatory costs, or to provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 120.53(1), 218.075, 373.044, 373.109, 373.113, 373.333(1), 373.4131, 373.4135, 373.4136, 373.416, 373.421(2), 373.421(6)(b), 380.051, 668.003, 668.004, 668.50, 695.03, 704.06 FS.

LAW IMPLEMENTED: 120.53(1), 120.57, 120.60, 120.69, 218.075, 373.083, 373.085, 373.106, 373.107, 373.109, 373.113, 373.116, 373.129, 373.171, 373.209(3), 373.229, 373.309, 373.4131, 373.4135, 373.4136, 373.416, 373.417, 373.421, 373.422, 373.426, 373.429, 373.430, 373.436, Chapter 373 Parts II and IV, 373.603, 380.051, 403.201, 668.003, 668.004, 668.50, 704.06 FS.

A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW:

DATE AND TIME: May 9, 2013, 9:00 a.m.

PLACE: South Florida Water Management District Headquarters, B-1 Auditorium, 3301 Gun Club Road, West Palm Beach, FL 33406

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: South Florida Water Management District Clerk, 1(800)432-2045, ext. 2087 or (561)682-2087. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Anita R. Bain, Environmental Resource Permitting Bureau Chief, South Florida Water Management District, 3301 Gun Club Road, West Palm Beach, FL 33406, 1(800)432-2045, ext. 6866 or (561)682-6866, abain@sfwmd.gov. For procedural questions, contact Jan Sluth, Paralegal, South Florida Water Management District, 3301 Gun Club Road, West Palm Beach, FL 33406, 1(800)432-2045, ext. 6299, or (561)682-6299, jsluth@sfwmd.gov. Information on this rulemaking process can also be found at <http://www.sfwmd.gov/rules>.

THE FULL TEXT OF THE PROPOSED RULE IS:

40E-1.602 Permits Required.

Unless expressly exempt by statute or District rule, permits must be obtained from the District prior to commencement of the following activities:

(1) through (3) No change.

(4) An ~~individual or general~~ environmental resource permit pursuant to Chapters 62-330 or 40E-4, 40E-40, or 40E-400, F.A.C., or, an individual or general surface water management or wetland resource permit grandfathered pursuant to Sections 373.414(11)-(16), F.S., must be obtained prior to:

(a) Construction, alteration, operation, maintenance, repair or abandonment of any ~~stormwater surface water~~ management system, dam, impoundment, reservoir, appurtenant work or works including dredging or filling as prescribed by District rule,

(b) Establishment and operation of a mitigation bank.

(5) A conceptual environmental resource permit may be obtained for proposed surface water management systems or mitigation banks. However, a conceptual permit does not authorize construction or operation. A conceptual mitigation bank permit can be utilized to estimate the legal and financial requirements for the mitigation bank, information required for

evaluation of the mitigation bank permit application, and potential mitigation credits that would be awarded to the specific project proposal.

(6) A proprietary authorization pursuant to Chapters 253 and 258, F.S., is required and shall be reviewed by the District for all activities which require a permit under Chapters 62-330 or 40E-4, 40E-40, or 40E-400, F.A.C., or a permit under subsections 373.414(11)-(16), F.S., and which are located on submerged lands owned by the Board of Trustees of the Internal Improvement Trust Fund pursuant to Section 373.427, F.S., Chapter 18-21, F.A.C., and Rules 18-18.014 and 62-343.075, F.A.C.

(7) through (11) No change.

Rulemaking Authority 373.044, 373.113, 373.4131, 373.4135 FS. Law Implemented ~~420.53(4), 420.57~~, 120.60, 373.085, 373.106, Chapter 373 Parts II and IV FS. History—New 9-3-81, Formerly 16K-1.06, Amended 7-26-87, 5-11-93, 10-3-95, 4-1-96, _____.

This rule will become effective on July 1, 2013, or upon the date that amendments to Chapter 62-330, F.A.C., proposed by the Department of Environmental Protection to implement the statutory mandate in Section 373.4131, F.S. (2012), take effect, whichever is later.

40E-1.603 Application Procedures for Processing Permit Applications or Notices of Intent.

(1) Application procedures for environmental resource permits are set forth in Chapter 62-330, F.A.C. The following procedures for processing permit applications or notices of intent apply in addition to the requirements of Section 120.60, F.S., and Chapter 28-106, F.A.C.

(a) No change.

(b) If the District determines that the application is incomplete, the District shall request the information needed to complete the application within 30 days of its receipt. For ~~individual environmental resource permits, standard environmental resource permits~~, individual water use permits, and standard general water use permits, the applicant shall have 90 days from receipt of a timely request for additional information to submit that information to the District.

(c) through (e) No change.

(2) No change.

(3)(a) Agency action on individual permits ~~and conceptual approvals for environmental resource permits~~ shall occur within 90 days of receipt of a complete application, including receipt of all requested information and correction of any error or omission of which the applicant was timely notified.

(b) No change.

(e) ~~Agency action on a standard environmental resource permit application in Chapter 40E-40, F.A.C., shall occur within 60 days of receipt of a complete application, including receipt of all requested information and correction of any error or omission of which the applicant was timely notified.~~

~~(d) Noticed general environmental resource permits under Chapter 40E-400, F.A.C., may be utilized by the applicant 30 days after the District receives the notice of intent, unless a notice that the project does not qualify for the noticed general permit is sent by regular United States mail or electronic mail by the District within 30 days, in accordance with Rule 40E-400.211, F.A.C. If notice that the proposed project does not qualify for the noticed general permit is sent by regular United States mail or electronic mail by the District to the applicant, the review process under subsection (1) shall be initiated or the applicant shall be required to apply for the appropriate permit if the requested activity is not covered by the noticed general permit rule.~~

Rulemaking Authority ~~420.53(1)~~, 373.044, 373.113, 373.4131 FS. Law Implemented 120.60, 373.107, 373.109, 373.116, 373.229, 373.4131, 373.417, 373.421, 373.422, 668.003, 668.004, 668.50 FS. History–New 9-3-81, Formerly 16K-1.08(1)-(8), Amended 7-1-86, 7-26-87, 11-21-89, 5-11-93, 10-3-95, 4-1-96, 7-2-98, 6-12-00, 10-1-06, Amended 12-1-11, 10-23-12,_____.

This rule will become effective on July 1, 2013, or upon the date that amendments to Chapter 62-330, F.A.C., proposed by the Department of Environmental Protection to implement the statutory mandate in Section 373.4131, F.S. (2012), take effect, whichever is later.

40E-1.6065 Consideration of Intended Agency Decision on Permit Applications.

(1) After the application for a permit is declared by staff to be complete, the District shall prepare a Staff Review Summary, which shall contain its recommendations regarding the subject application and which shall constitute intended agency decision. A notice of intended agency decision together with the Staff Review Summary shall be furnished to the applicant and any persons requesting the same pursuant to Rule 40E-1.6058, F.A.C., as applicable. The notice shall state the District Staff's recommendation that the District approve, deny, or approve with conditions the permit application and the reasons therefore.

(2) ~~If staff's recommendation is for denial, t~~The District shall consider the application for a conceptual approval, individual environmental resource, individual surface water management, or ~~individual~~ water use permit application at its next available regularly scheduled regulatory meeting following the mailing or electronic mailing of notice of intended agency decision, unless an administrative hearing is requested and granted pursuant to Section 120.569, F.S.

(3) In no case shall agency action be taken later than ~~60~~ 90 days after the application for a conceptual approval, ~~or~~ individual environmental resource permit, or ~~later than 90 days~~ for an individual water use permit is declared complete unless waived by the applicant or stayed by the filing of a petition for an administrative hearing. The permit applicant may

voluntarily waive the timeline for governing action on the permit application in Section 120.60, F.S., in order to resolve any outstanding issues, including third party objections, regarding the project.

(4) No change.

Rulemaking Authority ~~420.53(1)~~, 373.044, 373.113 FS. Law Implemented 120.60, 373.079, 373.083, 373.107, 373.109, 373.116, 373.4141, 668.003, 668.004, 668.50 FS. History–New 7-2-98, Amended 6-12-00, 10-1-06, 10-23-12,_____.

This rule will become effective on July 1, 2013, or upon the date that amendments to Chapter 62-330, F.A.C., proposed by the Department of Environmental Protection to implement the statutory mandate in Section 373.4131, F.S. (2012), take effect, whichever is later.

40E-1.607 Permit Application Processing Fees.

A permit application processing fee is required and shall be paid to the District when certain applications are filed pursuant to District rules. An application shall not be considered complete until the appropriate application fee is submitted. These fees are assessed in order to defray the cost of evaluating, processing, monitoring, and inspecting for compliance required in connection with consideration of such applications. 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 incorrect. Failure of any person to pay the applicable fees established herein will result in denial of an application. Activities that do not require a permit and are exempt pursuant to Rule 40E-2.051 or 40E-3.051, F.A.C., are not subject to the following permit application fees. The District's permit application processing fees are as follows:

(1) through (2) No change.

(3)(a) Environmental Resource Permit Application processing fees are in the following table:

TABLE 40E-1.607(3)(a)

PERMIT APPLICATION PROCESSING FEES FOR ENVIRONMENTAL RESOURCE PERMIT APPLICATIONS REVIEWED PURSUANT TO CHAPTERS ~~62-330 40E-4-~~ 40E-40, AND 40E-400, F.A.C.

For the purposes of determining the applicable processing fee, "project area" means the total area wherein works occur as part of an activity requiring a permit under Part IV of Chapter 373, F.S., including all portions of the stormwater management system serving the project area. Fee amounts shall apply to applications for conceptual and construction, or conceptual, or construction, except as noted.

<u>1. Use of the reviewing agency’s electronic self-certification system</u>	<u>\$0</u>
<u>2. Verification of exemption under Section 373.406 or 403.813(1), F.S., or under Rules 62-330.050 through 62-330.051, F.A.C.</u>	<u>\$100</u>
<u>3. Verification of qualification to use a Noticed General Permit</u>	<u>\$250</u>
<u>4. Individual or Conceptual Approval Permits, excluding Permits for a Mitigation Bank</u>	
<u>a. New applications – the processing fee for a new permit application shall be as determined from the categories below:</u>	
<u>(I) Total project area of less than 10 acres and no activities in, on or over wetlands or other surface waters, except where exempt under Rule 62-330.051(9)(a) through (c), F.A.C.</u>	<u>\$2000</u>
<u>(II) Project exceeds any of the thresholds in (3)(a)4.a.(I), above but involves a total project area of less than 10 acres, less than 1 acre of works (i.e. dredging, filling, construction, or alteration) in, on or over wetlands and other surface waters, AND less than 10 new boat slips</u>	<u>\$3500</u>
<u>(III) Project exceeds any of the thresholds in (3)(a)4.a.(II), above, but involves a total project area of less than 40 acres, less than 3 acres of works in, on or over wetlands and other surface waters, AND less than 30 new boat slips</u>	<u>\$5500</u>
<u>(IV) Project exceeds any of the thresholds in (3)(a)4.a.(III), above, but involves a total project area of less than 100 acres, less than 10 acres of works in, on or over wetlands and other surface waters, AND less than 50 new boat slips</u>	<u>\$7500</u>
<u>(V) Project exceeds any of the thresholds in (3)(a)4.a.(IV), above, but involves a total project area of less than 640 acres, AND less than 50 acres of works in, on or over wetlands and other surface waters</u>	<u>\$13,125</u>
<u>(VI) Project exceeds any of the thresholds (3)(a)4.a.(V), above</u>	<u>\$25,000</u>
<u>(VII) Projects that are exclusively for agriculture or silviculture, and that involve a total project area of less than 10 acres AND less than 1 acre of works (i.e. dredging, filling, construction, or alteration) in, on or over wetlands and other surface waters</u>	<u>\$859</u>
<u>(VIII) Projects that are exclusively for agriculture or silviculture, and that exceed any of the thresholds in (3)(a)4.a.(VII), above, but involves a total project area of less than 40 acres AND less than 3 acres of works in, on or over wetlands and other surface waters</u>	<u>\$2,444</u>
<u>(IX) Projects that are exclusively for agriculture or silviculture, and that exceed any of the thresholds in (3)(a)4.a.(VIII), above, but involve a total project area of less than 100 acres AND less than 10 acres of works in, on or over wetlands and other surface waters</u>	<u>\$4,029</u>
<u>(X) Projects that are exclusively for agriculture or silviculture, and that exceed any of the thresholds in (3)(a)4.a.(IX), above, but involve a total project area of less than 640 acres AND less than 50 acres of works in, on or over wetlands and other surface waters</u>	<u>\$5,284</u>
<u>(XI) Projects that are exclusively for agriculture or silviculture, and that exceed any of the thresholds in (3)(a)4.a.(X), above</u>	<u>\$6,605</u>
<u>(XII) Individual or Conceptual Permits solely for environmental restoration or enhancement activities, provided such activities are not associated with a mitigation bank and are not being implemented as mitigation for other activities that require a permit under Part IV of Chapter 373, F.S. For the purposes of this provision, the term “environmental restoration or enhancement” means an action or actions designed and implemented solely to convert degraded or altered uplands, wetlands, or other surface waters to intact communities typical of those historically present, or to improve the quality and condition of currently degraded wetlands or other surface waters to a more healthy, functional, and sustaining condition for fish, wildlife, and listed species</u>	<u>\$250</u>
<u>(XIII) Individual or Conceptual Permit solely to retrofit an existing stormwater management system or systems to add treatment to and reduce stormwater pollutant loadings from the system or systems</u>	<u>\$250</u>
<u>b. Major Modifications that exceed any of the thresholds in Rule 62-330.315(3), F.A.C.:</u>	
<u>(I) An Individual Permit or modification for a phase of construction that is consistent with an existing Conceptual Approval Permit</u>	<u>\$1500</u>
<u>(II) Major Modifications to an Individual or Conceptual Approval Permit that increase the project area</u>	<u>60% of fee for new permit for the same activity</u>
<u>(III) All other Major Modifications</u>	<u>60% of fee for new permit for the same activity</u>

<u>c. Minor Modifications that do not exceed any of the thresholds in Rule 62-330.315(2).</u>	
<u>F.A.C.:</u>	
<u>(I) Time Extensions of Permits, where not exempt from fees under Florida Statutes</u>	<u>\$500</u>
<u>(II) Minor Modifications to correct minor errors that do not involve technical review, to transfer ownership of a permit, or to transfer a permit from the construction to the operation phase</u>	<u>\$0</u>
<u>(III) All other Minor Modifications</u>	<u>\$250</u>
<u>5. Individual or Conceptual Permits for a Mitigation Bank</u>	
<u>a. New applications</u>	
<u>(I) for a Mitigation Bank with a permit area less than 100 acres</u>	<u>\$7,500</u>
<u>(II) for a Mitigation Bank with a permit area greater than 100 acres but less than 640 acres</u>	<u>\$13,125</u>
<u>(III) for a Mitigation Bank with a permit area of 640 acres or more</u>	
<u>b. Major Modifications involving changes to one or more of the following components: service area; credit assessment; success or release criteria; hydrologic structures or alterations; constructions or mitigation design that does not increase the project area; elimination of lands; or monitoring or management plans:</u>	
<u>(I) Affecting one of the above components</u>	<u>20% of the fee under 5.a.</u>
<u>(II) Affecting two of the above components</u>	<u>40% of the fee under 5.a.</u>
<u>(III) Affecting three of the above components</u>	<u>60% of the fee under 5.a.</u>
<u>(IV) Major modifications affecting four or more of the above components or that increase the project area</u>	<u>100% of the fee under 5.a.</u>
<u>c. Major Modifications that do not involve changes to the components listed in sub-subparagraph (3)(a)5.b. above, but that exceed any of the thresholds in subsection 62-330.315(2), F.A.C.:</u>	<u>100% of the fee under 5.a.</u>
<u>d. Minor Modifications that do not exceed any of the thresholds in Rule 62-330.315(2).</u>	
<u>F.A.C.:</u>	
<u>(I) Time Extensions of Permits, where not exempt from fees under Florida Statutes</u>	<u>\$500</u>
<u>(II) To correct minor errors that do not involve technical review, to transfer ownership of a permit, or to transfer a permit from the construction to the operation phase</u>	<u>\$0</u>
<u>(III) All other Minor Modifications</u>	<u>\$250</u>
<u>e. Mitigation Bank Credit Release</u>	
<u>f. Mitigation Bank Credit Withdrawal</u>	
<u>6. Informal Wetland Determination</u>	
<u>a. Where total area included is less than 1 acre</u>	
	<u>\$250</u>
<u>b. Where total area included is greater than 1 acre</u>	
	<u>\$500</u>
<u>7. Variance or Waiver:</u>	
<u>a. Under Section 120.542, F.S.</u>	
	<u>\$0</u>
<u>b. Under Section 373.414(17), F.S.</u>	
	<u>\$1,125</u>
<u>8. Fee reductions:</u>	
<u>a. Applications by an entity qualifying under Section 218.075, F.S., when the fee exceeds \$100.00</u>	
	<u>\$100.00</u>
<u>b. Applications submitted by the U.S. Department of Defense</u>	
	<u>\$0</u>
<u>c. For resubmittal, within 365 days, of an application for the same project that was previously withdrawn, under Rule 62-330.071(3), F.A.C., any fee paid as part of the previous application will be applied toward the fee required for the application under this rule</u>	
	<u>Previously paid fee shall be applied</u>
<u>Category</u>	<u>Amount</u>
<u>New Individual Permit</u>	
<u>Project area less than 100 acres</u>	
<u>Agriculture</u>	<u>\$4,029</u>
<u>All others, including Mitigation Banks</u>	<u>\$7,500</u>
<u>Project area 100 acres to less than 640 acres</u>	
<u>Agriculture</u>	<u>\$5,284</u>
<u>All others, including Mitigation Banks</u>	<u>\$13,125</u>
<u>Project area 640 acres or more</u>	
<u>Agriculture</u>	<u>\$6,605</u>
<u>All others, including Mitigation Banks</u>	<u>\$25,000</u>
<u>Individual Permit Modification</u>	
<u>Project area less than 100 acres</u>	
<u>Agriculture</u>	<u>\$2,708</u>

All others, including Mitigation Banks Project area 100 acres to less than 640 acres Agriculture	\$5,000 \$3,303
All others, including Mitigation Banks Project area 640 acres or more Agriculture	\$10,000 \$4,624
All others, including Mitigation Banks New Standard Permit (excluding incidental site activities pursuant to Rule 40E 40.042, F.A.C.) Agriculture	\$15,000 \$859
All others Standard Permit Modification including Application for phase construction under a Conceptual Approval	\$3,500
Application for individual permit modification for a system which does not exceed the criteria in Rule 40E 40.041, F.A.C. and which is not required to obtain an individual environmental resource permit for the reasons in subsection 40E 40.011(2), F.A.C. Agriculture	\$661
All others Noticed General Permit pursuant to Chapter 40E 400, F.A.C., including aquaculture	\$1,500 \$250
Single family residential homesite consisting of 10 acres or less in total land area Standard Permit for incidental site activities pursuant to Rule 40E 40.042, F.A.C. (Early Work)	\$100 \$1,000
Transfer of permit (including Mitigation Bank) to another entity pursuant to Rules 40E 1.6107 and 40E 4.351, F.A.C. Variance associated with an environmental resource permit application	\$675
From paragraph 40E 4.301(1)(c), F.A.C. From other permitting standards, permit conditions, or water quality standards	\$750 \$1,500
New Individual Operation Permit Letter Modification	\$5,250 \$250
New Individual or Standard Permits, or Individual or Standard Permit Modifications, solely for environmental restoration or enhancement activities provided such activities are not associated with a mitigation bank and are not being implemented as mitigation for other activities that require a permit under Part IV of Chapter 373, F.S. Such activities may include incidental passive recreation and facilities to provide public access to the environmental restoration or enhancement site	\$250
No Notice General Permits pursuant to Rules 40E 400.315 and 40E 400.316, F.A.C.	\$100
Verification that an activity is exempt from regulation under Part IV, Chapter 373 or 403.813, F.S.	\$100
Informal wetland boundary determinations under Part IV of Chapter 373, F.S., for property less than or equal to 1 acre	\$500
Permit Extensions	\$500

~~9.1.~~ When used in Table paragraph 40E-1.607(3)(a), F.A.C., “Agriculture” shall be defined as set forth in Section 570.02, F.S.

~~10.2.~~ For permit applications which involve a combination of fee categories, the highest fee that applies shall be charged.

~~11.3.~~ Any individual permit application submitted concurrently with a conceptual approval application – where the individual permit application represents a phase of the conceptual approval application – is exempt from the above environmental resource permit fees.

~~12.4.~~ For projects grandfathered pursuant to Section 373.414, F.S., the letter modification, conceptual approval, individual or general surface water management permit application fee shall be the same as listed in Table paragraph 40E-1.607(3)(a), F.A.C.

~~13.5.~~ The District shall use the Consumer Price Index (CPI) adopted by the United States Department of Labor since the most recently revised fee increase for revising fees under Part IV of Chapter 373, F.S., pursuant to Section 373.109, F.S. The inflation index used is the price paid by all urban consumers for a market basket of consumer goods and services; specifically, the CPI figures for the “CPI-U, U.S. City Average. All Items” established for the previous five years by the Bureau of Labor Statistics (BLS) (www.bls.gov/cpi),

computed as provided in the BLS publication Bureau of Labor Statistics Handbook of Methods, Chapter 17 (www.bls.gov/opub/hom/pdf/homch17.pdf).

- (b) No change.
- (4) No change.

(5) Petition for Formal Determination of Wetlands and Other Surface Waters processing fees are in the following table:

Category	Amount
Property less than or equal to 10 acres	\$500
Property greater than 10 acres but less than or equal to 40 100 acres	\$1,000 1,500
<u>Property greater than 40 acres but less than or equal to 100 acres</u>	<u>\$1500</u>
<u>Additional fee per 100 acres (or portion thereof) beyond the first 100 acres</u>	<u>\$350</u>
Property greater than 100 acres but less than or equal to 320 acres	\$3,500
Property greater than 320 acres	\$5,000
<u>Reissuance of a Formal Determination Renewal</u>	<u>\$350</u>

- (6) No change.

(7) PERMIT APPLICATION PROCESSING FEES FOR MODIFICATION OR TRANSFER OF ENVIRONMENTAL RESOURCE, SURFACE WATER MANAGEMENT OR WORKS OF THE DISTRICT PERMITS FOR PROPERTIES ACQUIRED BY THE DISTRICT PURSUANT TO THE FLORIDA FOREVER WORK PLAN OR SAVE OUR RIVERS LAND ACQUISITION AND MANAGEMENT PLAN:

(a) Modification of existing permits to reflect \$0 property ownership changes where no new works or modifications to an existing ~~stormwater~~ ~~surface water~~ management system is requested.

(b) Permit transfer pursuant to Rules 40E-1.6107 \$0 and ~~62-330.340~~ ~~40E-4.351~~, F.A.C.

Rulemaking Authority 373.044, 373.109, 373.113, 373.421(2), 373.421(6)(b), ~~373.4131~~ FS. Law Implemented 218.075, 373.109, ~~373.4131~~, 373.421(2), 373.421(6)(b), 403.201 FS. History--New 1-8-89, Amended 1-2-91, 11-15-92, 6-1-93, 1-23-94, 10-3-95, 4-1-96, 11-8-99, 5-24-00, 6-26-02, 7-11-02, 8-10-03, 8-14-03, 11-18-07, 11-1-09, 12-15-11, 10-23-12, _____.

This rule will become effective on July 1, 2013, or upon the date that amendments to Chapter 62-330, F.A.C., proposed by the Department of Environmental Protection to implement the statutory mandate in Section 373.4131, F.S. (2012), take effect, whichever is later.

40E-1.6107 Transfer of ~~Environmental Resource~~, Surface Water Management, Water Use Permit or Wetland Resource Permit.

(1) The procedures for the transfer of environmental resource permits are set forth in Rule 62-330.310, F.A.C. To transfer a ~~an~~ ~~environmental resource~~, surface water management, water use, or wetland resource permit, the permittee, in addition to satisfying the applicable provisions in Rules 40E-2.351, ~~40E-4.351~~, and 40E-20.351, ~~and~~ ~~40E-40.351~~, F.A.C., must submit Form No. 0483, (date),

TABLE 40E-1.607(5)

DETERMINATION PETITION PROCESSING FEES FOR FORMAL DETERMINATION OF WETLANDS AND OTHER SURFACE WATERS

For the validation of informal, non-binding wetland determinations pursuant to Section 373.421(6), F.S., the fees shall be the same as formal determinations listed in Table subsection 40E-1.607(5), F.A.C.

~~(hyperlink). October 2012, <http://www.flrules.org/Gateway/reference.asp?No=Ref-01531>, Request for ~~Environmental Resource~~, Surface Water Management, Water Use, or Wetland Resource Permit Transfer, incorporated by reference herein. Form 0483 is also available at no cost by contacting the South Florida Water Management District Clerk's Office, 3301 Gun Club Road, West Palm Beach, FL 33406, 1(800)432-2045, ext. 6436, or (561)682-6436.~~

(2) through (5) No change.

Rulemaking Authority ~~40E-53(4)~~, 373.044, 373.113 FS. Law Implemented 373.083, 373.171, 373.309, 373.416, 373.426, 373.429, 373.436, 668.003, 668.004, 668.50 FS. History--New 5-11-93, Amended 10-3-95, 10-1-06, 10-23-12, _____.

This rule will become effective on July 1, 2013, or upon the date that amendments to Chapter 62-330, F.A.C., proposed by the Department of Environmental Protection to implement the statutory mandate in Section 373.4131, F.S. (2012), take effect, whichever is later.

40E-1.615 Coordinated Agency Review Procedures for the Florida Keys Area of Critical State Concern.

(1) through (2) No change.

(a) No change.

(b) No permit and no coordinated agency review participation by the District is required for surface water management activities which are exempted by Rule ~~62-330.051~~ ~~40E-4.051~~ (~~Exempt Activities Exemptions~~), F.A.C.

(3) The following coordinated agency review procedures apply to projects which require permits pursuant to Chapters 40E-2 or 40E-20 (Consumptive Use), ~~62-330~~, and ~~40E-4~~ ~~or~~ ~~40E-40~~, (Environmental Resource), F.A.C.:

(a) The Coordinated Review Application shall consist of the application information required by Rules 40E-1.603 (Application Procedures for Processing Permit Applications or Notices of Intent), 40E-2.101 (Content of Application) or ~~62-330.060~~ ~~40E-4.101~~ (Content of Application), F.A.C.

(b) through (f) No change.

Rulemaking Authority 373.044, 373.113, 373.4131, 380.051 FS. Law Implemented 373.4131, 380.051, 668.003, 668.004, 668.50 FS. History—New 9-22-87, Amended 10-3-95, 10-1-06, 12-1-11, 10-23-12,_____.

This rule will become effective on July 1, 2013, or upon the date that amendments to Chapter 62-330, F.A.C., proposed by the Department of Environmental Protection to implement the statutory mandate in Section 373.4131, F.S. (2012), take effect, whichever is later.

40E-1.659 Forms and Instructions.

The following forms and instructions are incorporated by reference throughout the District’s rules as specified below and are listed herein for convenience. Hyperlinks are provided in the rules in which the forms and instructions are referenced and can be obtained without cost by contacting the South Florida Water Management District Clerk’s Office, 3301 Gun Club Road, West Palm Beach, FL 33406, (800)432-2045, ext. 6436, or (561)682-6436.

Form No.	Date	Title
0186	No change.	No change.
0188-QMQ	No change.	No change.
0188-QASR	No change.	No change.
0188-QMON	No change.	No change.
0188-QMQF	No change.	No change.
0188-QCROP	No change.	No change.
0188-QBWDR	No change.	No change.
0444	12-11	Application for a Standard Permit for Incidental Site Activities, incorporated by reference in paragraph 40E-40.042(5), F.A.C.
0445	No change.	No change.
0483	_____	Request for Environmental Resource, Surface Water Management, Water Use or Wetland Resource Permit Transfer, incorporated by reference in paragraph 40E-1.6107(1), F.A.C.
0645-W01	No change.	No change.
0645-G60	No change.	No change.
0645-G61-1	No change.	No change.
0645-G61-2	No change.	No change.
0645-G65	No change.	No change.
0645-G74	No change.	No change.
0645-G69	No change.	No change.
0645-G70	No change.	No change.
0645-G71	No change.	No change.
0645-G72	No change.	No change.
0645-G73	No change.	No change.
0779	No change.	No change.
0881A	12-11	Environmental Resource/Surface Water Management Permit Construction Completion Certification, incorporated by reference in paragraph 40E-4.361(1)(b), F.A.C.
0881B	12-11	Environmental Resource/Surface Water Management Permit Construction Completion Certification For Projects Permitted Prior to October 3, 1995, incorporated by reference in paragraph 40E-4.361(1)(b), F.A.C.
0889	No change.	No change.
0920	12-11	Request for Conversion of District Environmental Resource/Surface Water Management Permit from Construction Phase to Operation Phase and Transfer of Permit to the Operating Entity, incorporated by reference in paragraph 40E-4.361(1)(a), F.A.C.
0960	12-11	Environmental Resource/Surface Water Management Permit Construction Commencement Notice, incorporated by reference in paragraph 40E-4.381(1)(d), F.A.C.
0961	12-11	Environmental Resource/Surface Water Management Permit Annual Status Report for Surface Water Management System Construction, incorporated by reference in paragraph 40E-4.361(1)(e), F.A.C.
0971	5-12	Joint Application for Environmental Resource Permit/Authorization to Use State Owned Submerged Lands/Federal Dredge and Fill Permit, incorporated by reference in paragraph 40E-4.101(1)(b), F.A.C.
0972	5-12	Petition for a Formal Wetland and Surface Water Determination, incorporated by reference in paragraph 40E-4.091(1)(a), F.A.C.
0974	12-11	Notice of Intent to Construct a Minor Silvicultural System, incorporated by reference in subsection 40E-400.500(2), F.A.C.
0980	5-12	Notice of Intent to Use a Noticed General Environmental Resource Permit, incorporated by reference in subsection 40E-400.400(2), F.A.C.

1019	12-11	Mitigation Bank Performance Bond to Demonstrate Construction/Implementation Financial Assurance, incorporated by reference in paragraph 40E 4.091(1)(a), F.A.C.
1020	12-11	Mitigation Bank Irrevocable Letter of Credit to Demonstrate Construction/Implementation Financial Assurance, incorporated by reference in paragraph 40E 4.091(1)(a), F.A.C.
1021	12-11	Mitigation Bank Standby Trust Fund Agreement to Demonstrate Construction/Implementation Financial Assurance, incorporated by reference in paragraph 40E 4.091(1)(a), F.A.C.
1022	12-11	Mitigation Bank Trust Fund Agreement to Demonstrate Construction/Implementation Financial Assurance, incorporated by reference in paragraph 40E 4.091(1)(a), F.A.C.
1023	12-11	Mitigation Bank Trust Fund Agreement to Demonstrate Perpetual Management Financial Assurance, incorporated by reference in paragraph 40E 4.091(1)(a), F.A.C.
1024	12-11	Mitigation Bank Standby Trust Fund Agreement to Demonstrate Perpetual Management Financial Assurance, incorporated by reference in paragraph 40E 4.091(1)(a), F.A.C.
1045	No change.	No change.
1105	12-11	Performance Bond to Demonstrate Financial Assurance, incorporated by reference in paragraph 40E 4.091(1)(a), F.A.C.
1106	12-11	Irrevocable Letter of Credit to Demonstrate Financial Assurance, incorporated by reference in paragraph 40E 4.091(1)(a), F.A.C.
1189	12-11	Notice of Environmental Resource or Surface Water Management Permit, incorporated by reference in paragraph 40E 4.091(1)(a), F.A.C.
1190	12-11	Deed of Conservation Easement (Standard), incorporated by reference in paragraph 40E 4.091(1)(a), F.A.C.
1191	12-11	Deed of Conservation Easement (Standard Passive Recreational), incorporated by reference in paragraph 40E 4.091(1)(a), F.A.C.
1192	12-11	Deed of Conservation Easement (Standard Riparian), incorporated by reference in paragraph 40E 4.091(1)(a), F.A.C.
1194	12-11	Deed of Conservation Easement (Third Party Standard), incorporated by reference in paragraph 40E 4.091(1)(a), F.A.C.
1195	12-11	Deed of Conservation Easement (Third Party Passive Recreational), incorporated by reference in paragraph 40E 4.091(1)(a), F.A.C.
1196	12-11	Deed of Conservation Easement (Third Party Riparian), incorporated by reference in paragraph 40E 4.091(1)(a), F.A.C.
1197	12-11	Restrictive Covenant (Standard), incorporated by reference in paragraph 40E 4.091(1)(a), F.A.C.
1318	12-11	Deed of Conservation Easement (Local Governments), incorporated by reference in paragraph 40E 4.091(1)(a), F.A.C.
62-532.900(1)	No change.	No change.
62-532.900(2)	No change.	No change.

Rulemaking Authority 218.075, 373.044, 373.113, 373.4136, 373.416, 695.03, 704.06 FS. Law Implemented 218.075, 373.113, 373.4135, 373.4136, 373.416, 704.06 FS. History—New 9-3-81, Amended 12-1-82, 3-9-83, Formerly 16K-1.90, Amended 7-26-87, 11-21-89, 1-4-93, Formerly 40E-1.901, Amended 5-11-93, 4-20-94, 10-3-95, 6-26-02, 8-14-02, 8-31-03, 9-16-03, 9-20-04, 2-12-06, 1-23-07, 8-7-07, 7-4-10, 12-15-11, 5-20-12, 10-23-12,_____.

This rule will become effective on July 1, 2013, or upon the date that amendments to Chapter 62-330, F.A.C., proposed by the Department of Environmental Protection to implement the statutory mandate in Section 373.4131, F.S. (2012), take effect, whichever is later.

40E-1.715 Civil Penalty Calculation.

(1) Consistency and equitable treatment are essential elements of the District’s enforcement guidelines. Therefore, the District has developed two civil penalty matrices (CPM) for use in calculating appropriate civil penalties in enforcement actions. The Consumptive Use CPM, October 2012, <http://www.flrules.org/Gateway/reference.asp?No=Ref-01532>, is incorporated by reference herein and utilized for violations of Chapters 40E-2, 40E-3, 40E-5, 40E-20, 40E-21, F.A.C. The

Environmental Resource CPM, October 2012 <http://www.flrules.org/Gateway/reference.asp?No=Ref-01533>, is incorporated by reference herein and utilized for violations of Chapters ~~62-330~~, 40E-4, ~~40E-40~~, 40E-41, 40E-61, and 40E-63 ~~and 40E-400~~, F.A.C. Copies of the CPMs are also available at no cost by contacting the South Florida Water Management District Clerk’s Office, 3301 Gun Club Road, West Palm Beach, FL 33405, 1(800)432-2045, ext. 6436, or (561)682-6436.

(2) through (5) No change.

Rulemaking Authority ~~120.53(1)~~, 373.044, 373.113, 373.333(1) FS. Law Implemented 120.69, 373.129, 373.209(3), 373.430, 373.603 FS. History—New 10-3-95, Amended 10-23-12,_____.

This rule will become effective on July 1, 2013, or upon the date that amendments to Chapter 62-330, F.A.C., proposed by the Department of Environmental Protection to implement the statutory mandate in Section 373.4131, F.S. (2012), take effect, whichever is later.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Anita R. Bain, Environmental Resource Permitting Bureau Chief

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: South Florida Water Management District Governing Board

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 14, 2013

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: September 28, 2012

WATER MANAGEMENT DISTRICTS

South Florida Water Management District

RULE NOS.:	RULE TITLES:
40E-4.010	Review of Environmental Resource Permit Applications
40E-4.011	Policy and Purpose
40E-4.021	Definitions
40E-4.041	Permits Required
40E-4.0415	Permit Thresholds
40E-4.042	Formal Determination of Wetlands and Other Surface Waters
40E-4.051	Exemptions From Permitting
40E-4.0515	Exemptions From Specified Review Criteria
40E-4.054	Modification of Exempt Projects
40E-4.091	Publications, Rules and Interagency Agreements Incorporated by Reference
40E-4.101	Content of Permit Applications
40E-4.201	Forms and Instructions
40E-4.205	Permit Application Processing Fees
40E-4.301	Conditions for Issuance of Permits
40E-4.302	Additional Conditions for Issuance of Permits
40E-4.303	Environmental Resource Permit Authorization
40E-4.305	Conceptual Approvals
40E-4.321	Duration of Permits
40E-4.331	Modification of Permits
40E-4.341	District Revocation or Modification of Permits
40E-4.351	Transfer of Permits
40E-4.361	Conversion from Construction Phase to Operation Phase
40E-4.381	General Conditions
40E-4.451	Emergency Authorization

PURPOSE AND EFFECT: The South Florida Water Management District (“District”) proposes to amend and/or repeal its rules to be consistent with Section 373.4131, F.S. (2012), which requires the Florida Department of Environmental Protection (“DEP”), in coordination with the five water management districts (“WMDs”), to develop

environmental resource permitting (“ERP”) rules, which will be applicable statewide. These rules rely primarily upon existing rules of the DEP and WMDs, but were revised where necessary to achieve a more consistent, effective and streamlined approach in the state’s ERP program. To implement Section 373.4131, F.S., DEP has published a Notice of Rule Development in the *Florida Administrative Register* and has posted preliminary draft rule text on its website at <http://www.dep.state.fl.us/water/wetlands/swerp/index.htm>. DEP’s proposed rulemaking for Chapter 62-330, F.A.C., will necessitate amendments to existing rules and repeal of rules in which the subject matter will be addressed in Chapter 62-330, F.A.C.

SUMMARY: The document “Basis of Review for Environmental Resource Permit Applications within the South Florida Water Management District – May 20, 2012” (“Basis of Review”) previously incorporated by reference in Rule 40E-4.091, F.A.C., is proposed to be amended and renamed “Environmental Resource Permit Applicant’s Handbook, Volume II, For Use Within the Geographic Limits of the South Florida Water Management District.” (“AH Vol. II”) AH Vol. II deletes provisions that will be addressed in or be made obsolete by the “Environmental Resource Permit Applicant’s Handbook, Volume I (General and Environmental)” (“AH Vol. I”) which is proposed to be adopted by DEP. AH Vol. II will be used in conjunction with AH Vol. I to implement the State’s ERP program within the boundaries of the South Florida Water Management District. The new and remaining provisions in AH Vol. II generally address: (1) design and performance standards, and criteria for water quality and quantity / flood control for stormwater management systems, works and other regulated activities, including alternative criteria for those systems; (2) explanations of standards and criteria pertaining to water management system design and construction water flows and levels, flood protection, and the design of dams; (3) explanations of basin criteria; (4) flexibility for state transportation projects; (5) water quality retrofits; (6) description of drainage basins and regional watersheds; and (7) description of District-specific thresholds and exemptions to be referenced in amended Chapter 62-330, F.A.C. Hyperlinks to the materials incorporated by reference are added.

In addition, the District proposes to amend Rule 40E-4.010, F.A.C., to conform to DEP’s amendments to Chapter 62-330, F.A.C., by referencing Chapter 62-330, F.A.C., and to repeal Rules 40E-4.011, 40E-4.021, 40E-4.041, 40E-4.0415, 40E-4.042, 40E-4.051, 40E-4.0515, 40E-4.054, 40E-4.101, 40E-4.201, 40E-4.205, 40E-4.301, 40E-4.302, 40E-4.303, 40E-4.305, 40E-4.321, 40E-4.331, 40E-4.341, 40E-4.351, 40E-4.361, 40E-4.381, and 40E-4.451, F.A.C., as the substance of these rules will be addressed in Chapter 62-330, F.A.C.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency since most of the provisions being deleted are addressed in Chapter 62-330, F.A.C.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: The District has completed for the Governor's Office of Fiscal Accountability and Regulatory Reform (OFARR) the form entitled "Is a SERC Required?" and prepared a summary of the proposed rule amendments, which are both available upon request. Based on the completed form entitled "Is a SERC Required?" and summary and the analysis performed by District staff in preparing and completing those documents, the proposed rule amendments are not expected to require legislative ratification pursuant to subsection 120.541(3), F.S.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 120.54(5), 120.60, 373.016, 373.044, 373.103(8), 373.109, 373.113, 373.171, 373.406(5), 373.413, 373.4131, 373.414(9), 373.416, 373.441, 373.421, 380.06(9), 668.003, 668.004, 668.50, 704.06 FS.

LAW IMPLEMENTED: 120.54(5), 120.60, 373.016, 373.019, 373.042, 373.086(1), 373.103, 373.117, 373.118(1), 373.229, 373.403-443, 380.069, 380.23, 403.031, 403.813(1), 403.813(2), 668.003, 668.004, 668.50, 695.26, 704.06 FS.

A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW:

DATE AND TIME: May 9, 2013, 9:00 a.m.

PLACE: South Florida Water Management District Headquarters, B-1 Auditorium, 3301 Gun Club Road, West Palm Beach, FL 33406

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: South Florida Water Management District Clerk, 1(800)432-2045, ext. 2087 or (561)682-2087. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Anita R. Bain, Environmental Resource Permitting Bureau Chief, South Florida Water Management District, 3301 Gun Club Road, West Palm Beach, FL 33406, 1(800)432-2045, ext. 6866 or (561)682-6866, abain@sfwmd.gov. For procedural questions, contact Jan

Sluth, Paralegal, South Florida Water Management District, 3301 Gun Club Road, West Palm Beach, FL 33406, 1(800)432-2045, ext. 6299, or (561)682-6299, jsluth@sfwmd.gov. Information on this rulemaking process can also be found at <http://www.sfwmd.gov/rules>

THE FULL TEXT OF THE PROPOSED RULE IS:

40E-4.010 Review of Environmental Resource Permit Applications.

Environmental Resource permit applications are processed pursuant to the provisions of Section 120.60, F.S., ~~Part VI of Chapters 40E-1, 62-330~~ and 28-106, F.A.C.

Rulemaking Authority 120.54(5), 120.60, 373.4131 FS. Law Implemented 120.54(5), 120.60, 373.4131 FS. History—New 7-2-98, Amended _____.

This rule will become effective on July 1, 2013, or upon the date that amendments to Chapter 62-330, F.A.C., proposed by the Department of Environmental Protection to implement the statutory mandate in Section 373.4131, F.S. (2012), take effect, whichever is later.

40E-4.011 Policy and Purpose.

Rulemaking Authority 373.044, 373.113 FS. Law Implemented 373.086(1), 373.103(1), 373.103(4), 373.403-443 FS. History—New 9-3-81, Formerly 16K-4.01, Amended 4-20-94, 10-3-95, 12-1-11, Repealed _____.

This rule will become effective on July 1, 2013, or upon the date that amendments to Chapter 62-330, F.A.C., proposed by the Department of Environmental Protection to implement the statutory mandate in Section 373.4131, F.S. (2012), take effect, whichever is later.

40E-4.021 Definitions.

Rulemaking Authority 373.044, 373.113 FS. Law Implemented 373.019, 373.403-443, 403.031, 668.003, 668.004, 668.50, 704.06 FS. History—New 9-3-81, Amended 1-31-82, 12-1-82, Formerly 16K-1.05(1), Amended 7-1-86, 4-20-94, 10-3-95, 4-1-96, 10-1-06, 3-22-09, 11-11-09, 12-1-11, 5-20-12, Repealed _____.

This rule will become effective on July 1, 2013, or upon the date that amendments to Chapter 62-330, F.A.C., proposed by the Department of Environmental Protection to implement the statutory mandate in Section 373.4131, F.S. (2012), take effect, whichever is later.

40E-4.041 Permits Required.

Rulemaking Authority 373.044, 373.113, 373.406(5) FS. Law Implemented 373.103, 373.413, 373.416, 373.426 FS. History—New 9-3-81, Amended 12-1-82, Formerly 16K-4.03(1), 16K-4.07(1), 16K-4.09(1), Amended 1-23-94, 4-20-94, 10-3-95, 4-1-96, 1-7-97, 7-22-07, 12-1-11, Repealed _____.

This rule will become effective on July 1, 2013, or upon the date that amendments to Chapter 62-330, F.A.C., proposed by the Department of Environmental Protection to implement the statutory mandate in Section 373.4131, F.S. (2012), take effect, whichever is later.

40E-4.0415 Permit Thresholds.

Rulemaking Authority 373.044, 373.113, 373.406(5) FS. Law Implemented 373.118(1), 373.413(1) FS. History—New 10-3-95, Amended 5-28-00, 6-26-02, 4-14-03, 12-1-11, Repealed.

This rule will become effective on July 1, 2013, or upon the date that amendments to Chapter 62-330, F.A.C., proposed by the Department of Environmental Protection to implement the statutory mandate in Section 373.4131, F.S. (2012), take effect, whichever is later.

40E-4.042 Formal Determination of Wetlands and Other Surface Waters.

Rulemaking Authority 373.043, 373.113, 373.421(2) FS. Law Implemented 373.421(2) FS. History—New 10-3-95, Amended 7-22-07, 12-1-11, Repealed.

This rule will become effective on July 1, 2013, or upon the date that amendments to Chapter 62-330, F.A.C., proposed by the Department of Environmental Protection to implement the statutory mandate in Section 373.4131, F.S. (2012), take effect, whichever is later.

40E-4.051 Exemptions From Permitting.

Rulemaking Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.406, 373.413, 373.416, 403.813(1), (2) FS. History—New 9-3-81, Amended 1-31-82, 3-9-83, Formerly 16K-4.02, Amended 4-20-94, 10-3-95, 5-28-00, 9-2-01, 4-14-03, 9-9-07, 12-1-11, 5-20-12, Repealed.

This rule will become effective on July 1, 2013, or upon the date that amendments to Chapter 62-330, F.A.C., proposed by the Department of Environmental Protection to implement the statutory mandate in Section 373.4131, F.S. (2012), take effect, whichever is later.

40E-4.0515 Exemptions From Specified Review Criteria.

Rulemaking Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.406, 373.413, 373.416, 403.813(2) FS. History—New 10-3-95, Amended 5-28-00, Repealed.

This rule will become effective on July 1, 2013, or upon the date that amendments to Chapter 62-330, F.A.C., proposed by the Department of Environmental Protection to implement the statutory mandate in Section 373.4131, F.S. (2012), take effect, whichever is later.

40E-4.054 Modification of Exempt Projects.

Rulemaking Authority 373.044, 373.113 FS. Law Implemented 373.406, 373.413, 373.416 FS. History—New 3-9-83, Amended 4-20-94, 10-3-95, 5-28-00, Repealed.

This rule will become effective on July 1, 2013, or upon the date that amendments to Chapter 62-330, F.A.C., proposed by the Department of Environmental Protection to implement the statutory mandate in Section 373.4131, F.S. (2012), take effect, whichever is later.

40E-4.091 Publications, Rules and Interagency Agreements Incorporated by Reference.

(1) The following publications, rules and interagency agreements are incorporated by reference herein:

(a) ~~“Basis of Review for Environmental Resource Permit Applicant’s Handbook, Volume II For Use Within the Geographic Limits of Applications within the South Florida Water Management District, May 20, 2012 _____ (date), <http://www.flrules.org/Gateway/reference.asp?No=Ref 01045> _____ (hyperlink),~~ which incorporates the following forms or materials by reference:

1. Form No. 0972, Petition for a Formal Wetland and Surface Water Determination, May 20, 2012, <http://www.flrules.org/gateway/reference.asp?No=Ref 01047>, (referenced in Section 4.5.1);

2. Form No. 1019, Mitigation Bank Performance Bond to Demonstrate Construction/Implementation Financial Assurance, December 2011, <http://www.flrules.org/Gateway/reference.asp?No=Ref 00069>, (referenced in Section 4.4.4.7);

3. Form No. 1020, Mitigation Bank Irrevocable Letter of Credit to Demonstrate Construction/Implementation Financial Assurance, December 2011, <http://www.flrules.org/Gateway/reference.asp?No=Ref 00070>, (referenced in Section 4.4.4.7);

4. Form No. 1021, Mitigation Bank Standby Trust Fund Agreement to Demonstrate Construction/Implementation Financial Assurance, December 2011, <http://www.flrules.org/Gateway/reference.asp?No=Ref 00071>, (referenced in Section 4.4.4.7);

5. Form No. 1022, Mitigation Bank Trust Fund Agreement to Demonstrate Construction/Implementation Financial Assurance, December 2011, <http://www.flrules.org/Gateway/reference.asp?No=Ref 00072>, (referenced in Section 4.4.4.7);

6. Form No. 1023, Mitigation Bank Trust Fund Agreement to Demonstrate Perpetual Management Financial Assurance, December 2011, <http://www.flrules.org/Gateway/reference.asp?No=Ref 00073>, (referenced in Section 4.4.4.7);

7. Form No. 1024, Mitigation Bank Standby Trust Fund Agreement to Demonstrate Perpetual Management Financial Assurance, December 2011, <http://www.flrules.org/Gateway/reference.asp?No=Ref 00074>, (referenced in Section 4.4.4.7);

8. Form No. 1105, Performance Bond, December 2011, <http://www.flrules.org/Gateway/reference.asp?No=Ref 00075>, (referenced in Section 4.3.7.6);

9. Form No. 1106, Irrevocable Letter of Credit, December 2011, <http://www.flrules.org/Gateway/reference.asp?No=Ref 00076>, (referenced in Section 4.3.7.6);

10. Form No. 1190, Deed of Conservation Easement (Standard), December 2011 <http://www.flrules.org/Gateway/reference.asp?No=Ref 00078>, (referenced in Section 4.3.8);

11. Form No. 1191, Deed of Conservation Easement (Standard Passive Recreational), December 2011, <http://www.flrules.org/Gateway/reference.asp?No=Ref 00079>, (referenced in Section 4.3.8);

~~12. Form No. 1192, Deed of Conservation Easement (Standard Riparian), December 2011, <http://www.flrules.org/Gateway/reference.asp?No=Ref-00080>, (referenced in Section 4.3.8);~~

~~13. Form No. 1194, Deed of Conservation Easement (Third Party Standard), December 2011, <http://www.flrules.org/Gateway/reference.asp?No=Ref-00081> (referenced in Section 4.3.8);~~

~~14. Form No. 1195, Deed of Conservation Easement (Third Party Passive Recreational), December 2011, <http://www.flrules.org/Gateway/reference.asp?No=Ref-00082>; (referenced in Section 4.3.8);~~

~~15. Form No. 1196, Deed of Conservation Easement (Third Party Riparian), December 2011, <http://www.flrules.org/Gateway/reference.asp?No=Ref-00083>; (referenced in Section 4.3.8);~~

~~16. Form No. 1197, Restrictive Covenant (Standard), December 2011, <http://www.flrules.org/Gateway/reference.asp?No=Ref-00084>, (referenced in Section 4.3.8);~~

~~17. Form No. 1318, Deed of Conservation Easement (Local Governments), December 2011, <http://www.flrules.org/Gateway/reference.asp?No=Ref-00085>; (referenced in Section 4.3.8);~~

~~18. Chapter 27, Article XIII, Wellfield Protection Ordinance, Broward County Code of Ordinances, last amended September 28, 1999, <http://www.flrules.org/Gateway/reference.asp?No=Ref-00052>;~~

~~19. Dade County Wellfield Protection Ordinance contour showing maximum limits (Section 24-43 Protection of Public Potable Water Supply Wells; Chapter 24 Environmental Protection; Code of Metropolitan Dade County, Florida; Codified through Ordinance No. 11-01, enacted January 20, 2011 (Supp. No. 68)), <http://www.flrules.org/Gateway/reference.asp?No=Ref-00053>.~~

~~(b) 50 C.F.R., section 17.12, April 8, 2004, <http://www.flrules.org/Gateway/reference.asp?No=Ref-00044>; and Rules 68A-27.003, December 16, 2003, <http://www.flrules.org/Gateway/reference.asp?No=Ref-00092>; 68A-27.004, May 15, 2008, <http://www.flrules.org/Gateway/reference.asp?No=Ref-00444>, and 68A-27.005, F.A.C., November 8, 2007, <http://www.flrules.org/Gateway/reference.asp?No=Ref-00093>;~~

~~(b)(e) Operating Agreement Concerning Regulation Under Part IV, Chapter 373, F.S., between South Florida Water Management District and Department of Environmental Protection, July 1, 2007, <http://www.flrules.org/Gateway/reference.asp?No=Ref-00055>.~~

~~(c)(d) State water quality standards set forth in Chapters 62-4 April 21, 2009, <http://www.flrules.org/Gateway/reference.asp?No=Ref-00034>, 62-302, August 5, 2010, <http://www.flrules.org/Gateway/reference.asp?No=Ref-00035>, 62-520, July 12, 2009, <http://www.flrules.org/Gateway/reference.asp?No=Ref-00036>, 62-522, July 12, 2009,~~

~~<http://www.flrules.org/Gateway/reference.asp?No=Ref-00037>, and 62-550, F.A.C., September 18, 2007, <http://www.flrules.org/Gateway/reference.asp?No=Ref-00038>.~~

~~(d)(e) Chapter 62-312, Part IV, F.A.C., “Additional Criteria for Dredging and Filling Within Outstanding Florida Waters in Monroe County,” March 15, 2007, <http://www.flrules.org/Gateway/reference.asp?No=Ref-00039>.~~

~~(f) 40 C.F.R., section 264.143(f), for the purpose of providing financial responsibility and corporate guarantee requirements, July 14, 2006, <http://www.flrules.org/Gateway/reference.asp?No=Ref-00057>;~~

~~(g) Chapter 62-340, F.A.C., as ratified by Section 373.4211, F.S., for the purpose of delineating wetlands and other surface waters, July 1, 1994, <http://www.flrules.org/Gateway/reference.asp?No=Ref-00040>;~~

~~(h) 30 C.F.R., section 800.23 self bonding provisions, January 14, 1988 <http://www.flrules.org/Gateway/reference.asp?No=Ref-00056>;~~

~~(e)(i) Delegation Agreement among the Florida Department of Environmental Protection, the South Florida Water Management District, and Broward County, (dated May 22, 2001), <http://www.flrules.org/Gateway/reference.asp?No=Ref-00054>.~~

(2) No change.

Rulemaking Authority 373.044, 373.103(8), 373.113, 373.171, 373.413, ~~373.4131~~, 373.441, ~~668.003, 668.004, 668.50~~, 704.06 FS. Law Implemented 373.413, ~~373.4131~~, 373.4135, 373.4137, 373.414, 373.4142, 373.416, 373.418, 373.421, 373.426, 373.441, 668.003, 668.004, 668.50, 695.26, 704.06 FS. History—New 9-3-81, Amended 1-31-82, 12-1-82, Formerly 16K-4.035(1), Amended 5-1-86, 7-1-86, 3-24-87, 4-14-87, 4-21-88, 11-21-89, 11-15-92, 1-23-94, 4-20-94, 10-3-95, 1-7-97, 12-3-98, 5-28-00, 8-16-00, 1-17-01, 7-19-01, 6-26-02, 6-26-02, 4-6-03, 4-14-03, 9-16-03, 12-7-04, 2-12-06, 10-1-06, 11-20-06, 1-23-07, 7-1-07, 7-22-07, 11-11-09, 7-1-10, 7-4-10, 12-15-11, 5-20-12,_____.

This rule will become effective on July 1, 2013, or upon the date that ~~amendments to Chapter 62-330, F.A.C., proposed by the Department of Environmental Protection to implement the statutory mandate in Section 373.4131, F.S. (2012), take effect, whichever is later.~~

NOTE: The “Environmental Resource Permit Applicant’s Handbook, Volume II For Use Within the Geographic Limits of the South Florida Water Management District – _____ (date) _____,” incorporated by reference in proposed paragraph 40E-4.091(1)(a), F.A.C., may be viewed at <http://www.sfwmd.gov/rules>.

40E-4.101 Content of Permit Applications.

Rulemaking Authority 373.016, 373.044, 373.113, 373.171, 668.003, 373.416, 668.004, 668.50 FS. Law Implemented 373.016, 373.117, 373.413, 373.416, 373.426, 668.003, 668.004, 668.50 FS. History—New 9-3-81, Amended 1-31-82, 12-1-82, Formerly 16K-4.03(2), 16K-4.07(2), 16K-4.09(2), Amended 7-1-86, 11-21-89, 4-20-94, 10-3-95, 5-28-00, 4-14-03, 8-14-03, 2-12-06, 10-1-06, 12-1-11, 5-20-12, Repealed_____.

This rule will become effective on July 1, 2013, or upon the date that amendments to Chapter 62-330, F.A.C., proposed by the Department of Environmental Protection to implement the statutory mandate in Section 373.4131, F.S. (2012), take effect, whichever is later.

40E-4.201 Forms and Instructions.

Rulemaking Authority 120.53(1), 373.044, 373.113, 373.118 FS. Law Implemented 120.53(1), 373.044, 373.113, 373.116, 373.118, 373.229, 373.413, 373.421 FS. History–New 10-3-95, Amended 12-1-11, Repealed.

This rule will become effective on July 1, 2013, or upon the date that amendments to Chapter 62-330, F.A.C., proposed by the Department of Environmental Protection to implement the statutory mandate in Section 373.4131, F.S. (2012), take effect, whichever is later.

40E-4.205 Permit Application Processing Fees.

Rulemaking Authority 373.044, 373.109, 373.113, 373.171, 373.421 FS. Law Implemented 373.109, 373.421 FS. History–New 10-3-95, Repealed.

This rule will become effective on July 1, 2013, or upon the date that amendments to Chapter 62-330, F.A.C., proposed by the Department of Environmental Protection to implement the statutory mandate in Section 373.4131, F.S. (2012), take effect, whichever is later.

40E-4.301 Conditions for Issuance of Permits.

Rulemaking Authority 373.044, 373.113 FS. Law Implemented 373.413, 373.416, 373.426 FS. History–New 9-3-81, Amended 1-31-82, 12-1-82, Formerly 16K-4.035(2), 16K-4.30, Amended 7-1-86, 3-24-87, 4-14-87, 7-9-87, 4-21-88, 4-20-94, 10-3-95, 4-1-96, 1-7-97, 7-22-07, 12-1-11, Repealed.

This rule will become effective on July 1, 2013, or upon the date that amendments to Chapter 62-330, F.A.C., proposed by the Department of Environmental Protection to implement the statutory mandate in Section 373.4131, F.S. (2012), take effect, whichever is later.

40E-4.302 Additional Conditions for Issuance of Permits.

Rulemaking Authority 373.044, 373.113, 373.171, 373.414(9) FS. Law Implemented 373.042, 373.409, 373.413, 373.414, 373.416, 373.426, 380.23 FS. History–New 10-3-95, Amended 1-7-97, 12-3-98, 5-28-00, 7-1-07, 7-22-07, 12-1-11, Repealed.

This rule will become effective on July 1, 2013, or upon the date that amendments to Chapter 62-330, F.A.C., proposed by the Department of Environmental Protection to implement the statutory mandate in Section 373.4131, F.S. (2012), take effect, whichever is later.

40E-4.303 Environmental Resource Permit Authorization.

Rulemaking Authority 373.044, 373.113 FS. Law Implemented 373.413, 373.416, 373.421 FS. History–New 10-3-95, Amended 12-1-11, Repealed.

This rule will become effective on July 1, 2013, or upon the date that amendments to Chapter 62-330, F.A.C., proposed by the Department of Environmental Protection to implement the statutory mandate in Section 373.4131, F.S. (2012), take effect, whichever is later.

40E-4.305 Conceptual Approvals.

Rulemaking Authority 373.044, 373.113, 373.171, 380.06(9) FS. Law Implemented 373.413, 373.416, 373.421(2), 380.06(9) FS. History–New 10-3-95, Amended 4-14-03, 12-1-11, Repealed.

This rule will become effective on July 1, 2013, or upon the date that amendments to Chapter 62-330, F.A.C., proposed by the Department of Environmental Protection to implement the statutory mandate in Section 373.4131, F.S. (2012), take effect, whichever is later.

40E-4.321 Duration of Permits.

Rulemaking Authority 373.044, 373.113, 668.003, 668.004, 668.50 FS. Law Implemented 373.413, 373.416, 373.419, 373.426, 668.003, 668.004, 668.50 FS. History–New 9-3-81, Amended 1-31-82, 12-1-82, Formerly 16K-4.07(4), Amended 7-1-86, 4-20-94, 10-3-95, 5-28-00, 10-1-06, 12-1-11, 5-20-12, Repealed.

This rule will become effective on July 1, 2013, or upon the date that amendments to Chapter 62-330, F.A.C., proposed by the Department of Environmental Protection to implement the statutory mandate in Section 373.4131, F.S. (2012), take effect, whichever is later.

40E-4.331 Modification of Permits.

Rulemaking Authority 373.044, 373.113 FS. Law Implemented 373.413, 373.416(1) FS. History–New 12-1-82, Formerly 16K-2.031(1), 16K-2.032(1)(a), Amended 7-1-86, 11-21-89, 4-20-94, 10-3-95, 12-1-11, Repealed.

This rule will become effective on July 1, 2013, or upon the date that amendments to Chapter 62-330, F.A.C., proposed by the Department of Environmental Protection to implement the statutory mandate in Section 373.4131, F.S. (2012), take effect, whichever is later.

40E-4.341 District Revocation or Modification of Permits.

Rulemaking Authority 373.044, 373.113 FS. Law Implemented 373.429 FS. History–New 12-1-82, Amended 7-1-86, 4-20-94, 10-3-95, 7-2-98, 5-28-00, Repealed.

This rule will become effective on July 1, 2013, or upon the date that amendments to Chapter 62-330, F.A.C., proposed by the Department of Environmental Protection to implement the statutory mandate in Section 373.4131, F.S. (2012), take effect, whichever is later.

40E-4.351 Transfer of Permits.

Rulemaking Authority 373.044, 373.113 FS. Law Implemented 373.413, 373.416(2) FS. History–New 9-3-81, Amended 12-1-82, Formerly 16K-4.07(4), Amended 4-20-94, 10-3-95, Repealed.

This rule will become effective on July 1, 2013, or upon the date that amendments to Chapter 62-330, F.A.C., proposed by the Department of Environmental Protection to implement the statutory mandate in Section 373.4131, F.S. (2012), take effect, whichever is later.

40E-4.361 Conversion from Construction Phase to Operation Phase.

Rulemaking Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.413, 373.416 FS. History–New 10-3-95, Amended 1-7-97, 4-14-03, 9-16-03, 7-22-07, 12-1-11, Repealed.

This rule will become effective on July 1, 2013, or upon the date that amendments to Chapter 62-330, F.A.C., proposed by the Department of Environmental Protection to implement the statutory mandate in Section 373.4131, F.S. (2012), take effect, whichever is later.

40E-4.381 General Conditions.

Rulemaking Authority 373.044, 373.113, 373.171, 668.003, 668.004, 668.50 FS. Law Implemented 373.116, 373.229, 373.413, 373.416, 373.421, 373.422, 373.426, 668.003, 668.004, 668.50 FS. History—New 9-3-81, Amended 1-31-82, 12-1-82, Formerly 16K-4.07(3), 16K-4.38, Amended 7-1-86, 4-20-94, 10-3-95, 1-7-97, 4-14-03, 9-16-03, 10-1-06, 7-22-07, 12-1-11, Repealed.

This rule will become effective on July 1, 2013, or upon the date that amendments to Chapter 62-330, F.A.C., proposed by the Department of Environmental Protection to implement the statutory mandate in Section 373.4131, F.S. (2012), take effect, whichever is later.

40E-4.451 Emergency Authorization.

Rulemaking Authority 373.044, 373.113 FS. Law Implemented 373.119(2), 373.413 FS. History—New 9-3-81, Formerly 16K-4.13, Amended 10-3-95, 7-2-98, Repealed.

This rule will become effective on July 1, 2013, or upon the date that amendments to Chapter 62-330, F.A.C., proposed by the Department of Environmental Protection to implement the statutory mandate in Section 373.4131, F.S. (2012), take effect, whichever is later.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Anita R. Bain, Environmental Resource Permitting Bureau Chief

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: South Florida Water Management District Governing Board

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 14, 2013

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: September 28, 2012

WATER MANAGEMENT DISTRICTS

South Florida Water Management District

RULE NOS.:	RULE TITLES:
40E-6.011	Policy and Purpose
40E-6.021	Definitions
40E-6.031	Implementation
40E-6.041	Consent Required
40E-6.051	Exemptions
40E-6.091	Publications Incorporated by Reference
40E-6.101	Content of Application
40E-6.121	Conditions for Issuance of Notice General Permit
40E-6.201	Content of Application

40E-6.221	Conditions for Issuance of Standard Permits
40E-6.321	Duration of Permits
40E-6.331	Modification of Permits
40E-6.341	Revocation of Permits
40E-6.351	Transfer of Permits
40E-6.361	Financial Assurances and Insurance
40E-6.381	Limiting Conditions
40E-6.451	Emergency Authorization
40E-6.481	Emergency Measures
40E-6.501	Unlawful Use and Civil Penalties
40E-6.521	Self Help
40E-6.601	Permit Application Processing Fees
40E-6.701	C-18 Policy and Purpose
40E-6.711	C-18 Canal Right of Way Boundary
40E-6.721	C-18 Permits Required
40E-6.731	C-18 Exemptions
40E-6.741	C-18 Limiting Conditions
40E-6.751	C-18 Use Zones

PURPOSE AND EFFECT: To amend Rules 40E-6.011, 40E-6.021, 40E-6.031, 40E-6.041, 40E-6.051, 40E-6.091, 40E-6.201, 40E-6.221, 40E-6.321, 40E-6.331, 40E-6.341, 40E-6.351, 40E-6.361, 40E-6.381, 40E-6.451, 40E-6.481, 40E-6.501, 40E-6.521, and 40E-6.601, F.A.C., to repeal Rules 40E-6.101 and 40E-6.121, F.A.C. and to create new Rules. The rule amendments and repeals are being done in order to update right of way permitting rules in need of correction, modification and/or clarification in an effort to streamline and clarify the permitting process and correct inaccuracies. New Rules 40E-6.701, 40E-6.711, 40E-6.721, 40E-6.731, 40E-6.741, and 40E-6.751, F.A.C, will merge relevant portion of Chapter 40E-62, F.A.C. use of the District’s C-18 Canal Right of Way into Chapter 40E-6, F.A.C. and repeal the remainder of Chapter 40E-62, F.A.C.

SUMMARY: The Right of Way Permitting Program provides an evaluation process for requests to connect with and/or make use of Works and Land of the District in accordance with Sections 373.085 and 373.086, F.S.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The agency has determined that these rules will not have an adverse impact on small business or likely increase regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of these rules. A SERC has been prepared by the agency. Permitting fees have not been increased and regulations have been reduced. The rule revisions streamline and clarify the permitting process.

Any person who wishes to provide information regarding the statement of estimated regulatory costs, or to provide a proposal for a lower cost regulatory alternative must do so in

writing within 21 days of this notice. Since regulatory costs will be reduced, legislative ratification pursuant to Section 120.541(3), F.S., is not required.

RULEMAKING AUTHORITY: 373.044, 373.109, 373.113, 373.129 FS.

LAW IMPLEMENTED: 373.016, 373.083, 373.085, 373.086, 373.103, 373.109, 373.117, 373.118, 373.119, 373.129, 373.1395, 373.439, 373.603, 373.609, 373.613, 120.60(5), 380.06(9)(b), 403.0877, 471.003 FS.

A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW:

DATE AND TIME: May 9, 2013, 9:00 a.m.

PLACE: South Florida Water Management District Headquarters Auditorium, 3301 Gun Club Road, West Palm Beach, FL 33406

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: South Florida Water Management District Clerk at 1(800)432-2945, ext. 2087 or (561)682-2087. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Jorge Patino, Section Administrator - Right Of Way, South Florida Water Management District, Post Office Box 24680, West Palm Beach, FL 33416-4680, telephone 1(800)432-2045, ext. 6175 or (561)682-6175 or by email to jpatino@sfwmd.gov. For procedural questions, please contact Juli Russell, Paralegal, South Florida Water Management District, Post Office Box 24680, West Palm Beach, FL 33416-4680, telephone 1(800)432-2045, extension 6268 or (561)682-6268 or by email to jurussel@sfwmd.gov

THE FULL TEXT OF THE PROPOSED RULE IS:

40E-6.011 Policy and Purpose.

(1) This chapter governs the use of or connection to works or lands of the District. Conditions and criteria are established to ensure that uses are compatible with the construction, operation, and maintenance of such works or lands.

(2) Due to the critical importance of works and lands of the District in providing flood protection and other benefits, it is considered essential that the District retain complete dominion and control over the use of such works or lands, including those subject to right of way occupancy permits. The District acts in a proprietary capacity in acquiring lands or interests therein for utilization as works of the District. These rules are based upon proprietary concepts of property law. A "permit" to utilize works or lands of the District is a contract between the District and the "permittee," whereby the permittee obtains a license which is revocable at will, except as

otherwise provided herein. All risk of loss regarding expenditures in furtherance of the permitted use is borne by the permittee. The District retains complete discretion as to the manner, if any, in which works or lands of the District shall be utilized, and nothing in these rules is intended to limit that discretion.

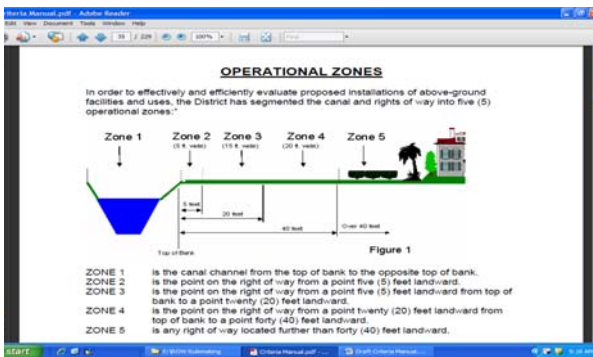
(3) An exception to subsection (2), above, is made for governmental entities and utilities, which may have their consent to utilize District works or lands revoked only for cause, pursuant to the criteria set forth in this chapter.

(4) The District has determined that an unencumbered 40 foot wide strip of right of way, measured from the top of bank landward, is required in order for the District to perform the required routine and emergency operations and maintenance activities necessary to insure flood protection to the entire community. In this 40 foot right of way, subject only to limited exceptions provided in this rule, the District shall not authorize any aboveground facilities or other encroachments.

(5) The requirement for the unencumbered 40 foot right of way shall be applicable regardless of the District's quality of title to the right of way and regardless of the width of the overbank right of way.

(6) In the past, the District has authorized certain above-ground facilities and uses on its rights of way within a 40 foot wide area adjacent to the top of bank, as set forth in subsection (4), above. However, over time and with experience gained in disaster preparation, operation and recovery, the District has determined that these previously authorized above-ground facilities and uses are now inconsistent with the current and future operation and maintenance needs of the District. These facilities and uses have also been determined by the District to increase the operation and maintenance costs (for both routine and emergency operation and maintenance activities) and pose a significant additional physical burden on District staff. Subject to those uses specifically allowed in the Criteria Manual for Use or Occupancy of the Works or Lands of the District (Criteria Manual) (Basis of Review), no future authorizations by the District shall allow above-ground facilities or uses within that 40 foot wide area adjacent to the top of bank within the right of way, and all previous authorizations for facilities and uses shall be expressly limited to minimize their adverse impact on District operations and maintenance. Specifically, such authorizations shall not be modified or transferred, and shall be subject to the revocation provisions set forth herein as determined necessary by the District in order to meet its current and future operation and maintenance responsibilities to provide adequate flood protection to the community.

(7) In order to effectively and efficiently evaluate proposed installations of above-ground facilities and uses, the District has segmented the canal and rights of way into five (5) operational zones shown on the diagram below:



The District's rights of way vary in width, and may be either less than forty feet or more than forty feet in width. Accordingly, in those cases when the right of way is less than forty feet, only those zones depicted above would be applicable to the actual width of the right of way.

The specific above-ground facilities and uses which are consistent with the District's operation and maintenance needs, and which will generally be authorized are set forth in Rules ~~40E-6.121~~ and 40E-6.221, F.A.C. Those facilities and uses not specifically identified as being consistent with the District's operation and maintenance needs for the respective zones have been determined by the District to be inconsistent with District operation and maintenance needs and no District authorization shall be granted.

(8) Due to the varying widths and physical limitations of the rights of way obtained by the District for the canals of the Big Cypress Basin, maintenance of the Basin canals is currently performed with different equipment than is utilized throughout the remainder of the District. Based on the differing maintenance needs of the Big Cypress Basin, application of the five operational zones, as set forth in subsection (7), above, will be reviewed on a case by case basis taking into account the width of overbank right of way, the accessibility of the right of way to land-based maintenance equipment and any site specific conditions that would impact the Basin's ability to operate and maintain the canal which is the subject of a particular application.

(9) The District reserves sole authority to make a determination that portions of the District's rights of way are inaccessible for routine maintenance activities due to a variety of physical limitations. While a determination that a certain segment of right of way is presently unusable for routine land-based maintenance activities and relaxation of the restrictions in zones 2, 3, 4, and 5 may be allowed, such determination shall be at the sole discretion of the District and does not obviate the need for individuals with proposed or existing facilities within these areas to obtain permits from the District. Further, the District reserves the right to enter these areas to conduct emergency operations or to require the

removal of any encroachments that are inconsistent with these rules at such time as maintenance access is perfected through the area.

(10) The District has further determined that certain facilities and uses meeting specific minimum criteria for various right of way zones shall more efficiently be granted authorization with a limited review by District staff, since these specific facilities and uses do not adversely impact the District's ability to operate and maintain the District's right of way and works of the District. Such authorizations shall be administered by the provisions of Rules ~~40E-6.201+01~~ and ~~40E-6.221+21~~, F.A.C., as a notice general permit. The District will incur less expense in the review of notice general permit applications, and, therefore the application processing fee associated with such facilities and uses shall reflect accordingly, as set forth herein. If multiple uses are being requested and any of those uses require a standard permit, all authorizations shall be requested under the standard permit application and a notice general permit will not be required.

(11) In managing its canal and levee system the District must, from time to time, change its criteria and permit requirements based on regional and site specific conditions. Applicants are cautioned that the information provided by District staff is based on the best available information at the time the information is conveyed, but is subject to change. This is particularly true when applicants delay months or years in submitting an application for permit. Therefore the rules, criteria and requirements in effect at the time a formal application is received for review will be applied to the permit application.

Rulemaking Specific Authority 373.113 FS. Law Implemented 373.016, 373.085, 373.086, 373.118, 373.129, 373.1395 FS. History—New 9-3-81, Formerly 16K-5.01(1), Amended 12-29-86, 9-15-99, 7-12-06, _____.

40E-6.021 Definitions.

(1) The term "above-ground facilities" when used in these rules is intended to mean any and all physical improvements or uses, whether man-made or natural (e.g., vegetation), that are extended above the existing surface of the ground.

(2) The term "change of ownership" when used in these rules is intended to mean the sale, purchase, or transfer of beneficial ownership of property adjacent to the District's right of way relative to a right of way occupancy permit; or in the case of utilities, bridges, or other such public facilities, the sale, purchase, or transfer of responsibility.

(3) The term "easement" when used in these rules is intended to mean the District's legal interest in the land for a specific limited use, such as access, construction, operation and maintenance of a canal or levee, access, stock piling of spoil material, or flowage of the land of another.

(4) The term "fee" ownership when used in these rules is intended to mean absolute and unconditional ownership by the District.

(5) The term "financial assurances" when used in these rules is intended to mean a cash bond to be held by the District in a non-interest bearing account, a performance bond issued by a licensed bonding company, a letter of credit issued by a financial institution authorized to do business in the State of Florida, or other such instrument approved by the District.

(6) The term "marina" when used in these rules is intended to mean a docking facility for four (4) or more watercraft.

(7) The term "modification" when used in these rules is intended to mean the addition or deletion of any facilities or uses not specifically authorized by the original permit.

(8) The term "notice general permit" when used in these rules is intended to mean a revocable license to occupy the works or lands of the District for specific types of ~~proposed~~ uses, with limited review by District staff, as set forth herein, and not requiring Governing Board approval.

(9) The term "owner" when used in these rules is intended to mean the individual or entity legally responsible for the ownership and control of the ~~proposed~~ facility or authorized use.

(10) The term "permit transfer" when used in these rules is intended to mean the changing of responsibility for the permit authorization from one person or entity to another.

(11) The term "public works project" when used in these rules is intended to mean projects such as bridges, roads, utilities, and parks.

~~(12)(11) The term "right of way" when used in these rules is intended to mean those lands acquired by the District in fee, easement, or other type of grant, for the purpose of construction, operations and maintenance of works of the District's including, but not limited to, canals, and levees system, water control structures, spoil areas, Stormwater Treatment Areas (STAs), and access roads and other easements.~~

~~(13)(12) The term "right of way occupancy permit" when used in these rules is intended to mean a revocable license to occupy the works or lands of the District, either by a notice general permit or a standard permit.~~

(14) The term "safety features" when used in these rules is intended to mean those appurtenances/facilities associated with public work projects such as signage, guardrails, bollards, signalization, handrails and lighting/security poles.

~~(15)(14) The term "STA" when used in these rules is intended to mean the District's Everglades Nutrient Removal Project ("ENR"), as well as those areas currently, or in the future, designated by the District as Stormwater Treatment Areas.~~

(16) The term "staging area" when used in these rules is intended to mean that portion of land, 100' in length, for the entire width of the District's right of way, located on the upstream and downstream sides of all bridge and pile-supported utility crossings.

~~(17)(14) The term "standard permit" when used in these rules is intended to mean a revocable license to occupy the works or lands of the District for all uses not covered by a notice general permit, with a full review by District staff, as set forth herein, and requiring Governing Board approval.~~

~~(18)(15) The term "top of bank" when used in these rules is intended to mean the point at which the flat or nearly level ground surface transitions down to the channel along the side slope of the canal bank.~~

~~(19)(16) The term "tree" when used in these rules is intended to mean not only the trunk of the tree, but the farthest part of the canopy of the tree at maturity as well.~~

~~(20)(17) The term "utility" when used herein means entities companies actually providing essential water, electric, telephone, fiber optic/cable, sewer, or natural gas services. All other services shall be considered non-essential.~~

~~(21)(18) The term "violator" when used in these rules is intended to mean any persons or entities acting contrary to the provisions of Chapter 373, F.S., these rules, as well as the provisions of any permit issued pursuant to these rules.~~

~~(22)(19) The term "wWorks of the District" when used in these rules is intended to mean the canals, levees, structures, lands, water bodies, and other associated facilities which have been adopted as such by the District's Governing Board.~~

~~(23)(20) The term "Zone 1" when used in these rules is intended to mean the canal channel from the top of bank to the opposite top of bank, as depicted in subsection 40E-6.011(7), F.A.C Figure 1.~~

~~(24)(21) The term "Zone 2" when used in these rules is intended to mean the point on the right of way from the top of bank to a point five (5) feet landward, as depicted in subsection 40E-6.011(7), F.A.C Figure 1.~~

~~(25)(22) The term "Zone 3" when used in these rules is intended to mean the point on the right of way from a point five (5) feet landward from top of bank to a point twenty (20) feet landward, as depicted in subsection 40E-6.011(7), F.A.C Figure 1.~~

~~(26)(23) The term "Zone 4" when used in these rules is intended to mean the point on the right of way from a point twenty (20) feet landward from top of bank to a point forty (40) feet landward, as depicted in subsection 40E-6.011(7), F.A.C Figure 1.~~

~~(27)(24) The term "Zone 5" when used in these rules is intended to mean any right of way located farther than forty (40) feet from the top of bank, as depicted in subsection 40E-6.011(7), F.A.C Figure 1.~~

Rulemaking Specific Authority 373.044, 373.113 FS. Law Implemented 373.085, 373.086 FS. History--New 9-15-99, Amended 7-12-06,_____.

40E-6.031 Implementation.

(1) The effective date for the program established in this chapter is _____ September 15, 1999.

(2) All permits issued prior to the effective date of these rules shall remain in effect, except as provided herein.

(3) All applications, and permit application processing fees, for permits received by the District prior to the effective date of these rules shall be processed using the criteria set forth in ~~Volume V, Criteria Manual for Use or Occupancy of the Works or Lands of the District – Permit Information Manual, adopted December 24, 1991~~.

(4) All applications, and permit application processing fees, received by the District on or after the effective date of these rules shall be subject to the provisions of these rules and the criteria adopted pursuant to these rules as set forth in Rule 40E-6.091, F.A.C.

Rulemaking Specific Authority 373.044, 373.113 FS. Law Implemented 373.085, 373.086 FS. History–New 9-3-81, Amended 12-29-86, 9-15-99, _____.

40E-6.041 Consent Required.

(1) Unless expressly exempt by law or District rule, a right of way occupancy permit, either a notice general permit or a standard permit, must be obtained prior to connecting with, placing structures in or across, discharging into or making use of the works of the District and any additional lands or real property interest owned by the District used in conjunction with such works, including the Stormwater Treatment Areas (STAs) ~~Works or lands of the District subject to this requirement appear in the document listed in Rule 40E-6.091, F.A.C.~~

(2) All other use and occupancy of District works or lands must be consistent with the purposes and objectives of Ch. 373, F.S., and Title 40E, F.A.C.

(3) These rules do not apply to:

(i) Those portions of “management areas” described property managed by the District pursuant to Chapter 40E-7, Part V, F.A.C., not contained within Works of the District, or

(ii) Property managed by the District pursuant to the District’s Real Estate or leasing policies, except as otherwise limited by subsection 40E-6.221(8), F.A.C.

(4) These rules do not apply to the Seminole Tribe of Florida at such time as there exists a District approved agreement specifically addressing the use and management of District rights of way between the District and the Seminole Tribe of Florida.

(5) Except when works or lands of the District have been affirmatively opened to public vehicular use, a right of way occupancy permit must be obtained prior to traveling on or across such works or lands.

(6) A conceptual approval for the use of works of the District may be obtained by processing a right of way occupancy permit application in conjunction with the request for a letter of conceptual approval only if the letter of conceptual approval is requested pursuant to Section 380.06(9)(b), F.S.

Rulemaking Specific Authority 373.044, 373.113 FS. Law Implemented 373.085, 373.086, 380.06(9)(b), 373.118 FS. History–New 9-3-81, Formerly 16K-5.01(1), 16K-5.10, Amended 7-1-86, 12-29-86, 12-24-91, 9-15-99, _____.

40E-6.051 Exemptions.

(1) The following uses are exempt from permitting under this chapter where such facilities and uses comply with the criteria contained in the document listed in subsection 40E-6.091(1), F.A.C.:

- (a) The planting or maintenance of native or drought and insect resistant turf grasses;
- (b) Drain lines (pool, roof, air-conditioning);
- (c) Low lying groundcover in certain zones;
- (d) Irrigation lines, flush or pop-up sprinklers, draft lines; and
- (e) Not-for-profit, organized boat races, regattas and similar activities.

(2) An exemption from these rules shall not relieve any person or entity from compliance with other District permit requirements and any applicable permit requirements of federal, state and local government.

(3) The District is not responsible for the repair of or claims of damage to any facilities and uses which may incur damage resulting from the District’s utilization of its rights of way or use by third parties. Improvements placed within the right of way are done so at the sole risk of the owner.

(4) The District is not responsible for any personal injury or property damage which may directly or indirectly result from the use of water from the District’s canal or any activities which may include use or contact with water from the District’s canal, since the District periodically sprays its canals for aquatic weed control purposes and uses substances which may be harmful to human health or plant life.

Rulemaking Specific Authority 373.044, 373.113 FS. Law Implemented 373.085, 373.086 FS. History–New 12-24-91, Amended 9-15-99, 7-12-06, Repromulgated _____.

40E-6.091 Publications Incorporated by Reference.

(1) The ~~“Criteria Manual Basis of Review for Use or Occupancy of the Works or Lands of the District Permit Applications within the South Florida Water Management District – September 15, 1999” (“Criteria Manual”)~~ (NEED TO INCLUDE HYPERLINK TO DOCS), which includes separate and distinct minimum criteria developed to address the unique characteristics and operational needs of the respective areas of the District for the Okeechobee Basin, the Big Cypress Basin, and the STA’s, is hereby published by reference and incorporated into this Chapter.

(2) ~~The works and lands of the District lands and works~~ subject to this Chapter are adopted by the Governing Board by Resolution in accordance with the provisions of Section 373.086, F.S., ~~The District’s lands and works are listed in the document referenced in subsection (1) and are hereby~~

~~published by reference and incorporated into this Chapter A current list of the adopted Works of the District is available upon request and can also be located on the District's website (www.sfwmd.gov).~~

~~(3) The document listed in subsection (1) is published by the District and available upon request, as well as located on the District's website.~~

~~Rulemaking Specific Authority 373.044, 373.113 FS. Law Implemented 373.085, 373.086, 403.0877 FS. History--New 9-3-81, Formerly 16K-5.01(3), Amended 12-29-86, 12-24-91, 9-15-99, _____.~~

40E-6.101 Content of Application.

~~(1) Applications for permits required by this Subpart shall be filed with the District. The applications shall contain the following information:~~

~~(a) Form NGP-1 "Application to the South Florida Water Management District for Right of Way Notice General Permit" effective date September 15, 1999, which is hereby incorporated by reference and which may be obtained at the South Florida Water Management District, 3301 Gun Club Road, West Palm Beach, Florida 33406;~~

~~(b) The applicant's name and address including zip code and phone number;~~

~~(c) All owner's names, as appearing on the tax rolls, and complete address and phone numbers if applicant or user is other than the owner(s);~~

~~(d) The project location relative to County, Section, Township and Range; Lot, Block and Subdivision; or a metes and bounds description;~~

~~(e) Whether the proposed use is a modification, an existing use, or is a new use;~~

~~(f) A description of the proposed use of or encroachment on works or lands of the District;~~

~~(g) A description of the proposed use of or encroachment on works or lands of the District and in which zone, as depicted in Figure 1, the proposed use will be located;~~

~~(h) Six copies of a sealed or fully dimensioned 8 1/2 " x 11" drawing, reflecting the proposed use in plan and elevation views, related to the applicable work of the District, and tied to a known reference point in the immediate area of the proposed use. Larger drawings or aerial photographs shall be required, if necessary to adequately show the location and nature of the proposed use. A property survey, indicating the location of the District right of way boundary line shall also be provided.~~

~~1. All drawings shall utilize English units of measure or a combination of both English and metric units of measure. Vertical datum shall be National Geodetic Vertical Datum (1929), North American Vertical Datum(1988), or Mean Sea Level and the datum utilized shall be specified on the drawing(s).~~

~~2. All drawings for seawalls or bulkheads and subaqueous or pile supported crossings shall be supported with cross sections of the existing channel. Unless waived or modified by the District pursuant to prior written request by the applicant, soundings for the cross sections shall be taken at 10 foot intervals from top of bank to top of bank and shall be tied to both canal/levee right of way lines. For subaqueous or pile supported crossings a minimum of 3 cross sections shall be supplied by the applicant; one at the point where the proposed crossing crosses the centerline of the canal; and one each upstream and downstream of the crossing at points determined by the District. For seawall or bulkhead projects the District shall determine the number of cross sections required but said cross sections will be no more frequent than one cross section per every 25 feet of proposed bulkheading. Cross sections shall be plotted to the same horizontal and vertical scale using standard 10 x 10 cross section paper or similar CAD format. The cross sections shall have superimposed upon them the design section for the canal at the location and existing cross sectional area below the design water surface shall be accurately calculated by the applicant and printed on or adjacent to each cross section.~~

~~3. Except where exempt pursuant to section 471.003, F.S., drawings for bridge crossings, bulkheads, seawall, retaining walls, hard shoreline stabilization and revetment installations shall be signed and sealed by a Florida registered professional engineer.~~

~~(i) Information sufficient to demonstrate that the proposed use meets the criteria established in the document referred to in Rule 40E-6.091, F.A.C.; and~~

~~(j) The estimated length of time needed for completion of the proposed work once construction has begun.~~

~~(2) Applications shall be signed by both the owner(s) and authorized agent, if applicable.~~

~~(3) Applications shall not be considered complete until such time as all required information as set forth in subsections (1) and (2), above, and insurance and financial assurances in accordance with Rule 40E-6.361, F.A.C., have been received by the District.~~

~~Rulemaking Specific Authority 373.044, 373.113 FS. Law Implemented 373.086, 373.117, 373.118, 471.003 FS. History--New 9-3-81, Formerly 16K-5.04(1), Amended 12-1-82, 12-29-86, 12-24-91, 9-15-99, Repealed _____.~~

40E-6.121 Conditions for Issuance of Notice General Permits.

~~(1) The District has determined that certain uses shall be authorized under a notice general permit when the proposed location is in an authorized operational zone and the criteria established in the Basis of Review, incorporated by reference in 40E-6.091, F.A.C., have been met. These uses are set forth in the Permit Index Chart included in the Basis of Review. Any facilities currently existing cannot be authorized by a notice~~

~~general permit and must receive authorization through the standard permit application process or be promptly removed from the District's right of way.~~

~~(2) Due to the nature of the projects, the following facilities and uses cannot be authorized by a Notice General Permit:~~

- ~~(a) Roadway and highway projects;~~
- ~~(b) Marinas and public boat launching facilities;~~
- ~~(c) Linear Parks;~~
- ~~(d) Permanent buildings and other above ground structures;~~
- ~~(e) Crude oil and petroleum product pipelines;~~
- ~~(f) Other such facilities or uses.~~

~~(3) The District has determined that the proposed activity fully complies with all of the criteria set forth in Rule 40E-6.091, F.A.C.~~

~~(4) Except for utilities, both essential and non-essential, an applicant must own or lease the land adjacent to or served by the portion of the works or lands of the District involved.~~

~~(5) In addition to the requirements and restrictions set forth in subsections (1) to (4), the District, due to its proprietary interest in its lands and works, possesses and exercises all the rights and remedies available to owners of real property through statutory and common law.~~

~~(6) Any and all above-ground facilities located within the clear 40-foot wide right of way, as set forth in Rule 40E-6.011(4), F.A.C., or within the right of way at locations where the right of way is less than 40 feet wide, as measured from the top of the canal bank, are prohibited.~~

~~(7) The notice general permit provisions of this rule are not intended to apply to the notice general permit provisions in District Chapter 40E-62, F.A.C.~~

~~(8) The limiting conditions set forth in Rule 40E-6.361, F.A.C., shall be incorporated into every Notice General Permit issued.~~

Rulemaking Specific Authority 373.044, 373.113 FS. Law Implemented 373.016, 373.085, 373.086, 373.118 FS. History—New 9-15-99, Repealed _____.

40E-6.201 Content of Application.

(1) Applications for permits ~~required by this Subpart~~ shall be filed with the District. The ~~standard~~ permit application shall contain the following information:

(a) A completed Form 0122 SP-1 "Application to the South Florida Water Management District for Right of Way Occupancy Permit" effective date September 15, 1999, which is hereby incorporated by reference and which may be obtained at the South Florida Water Management District, 3301 Gun Club Road, West Palm Beach, Florida 33406;

(b) The applicant's name and address, if other than owner, including zip code and phone number;

(c) All owner's names, as appearing on the tax rolls, and complete address if applicant or user is other than the owner;

(d) The project location relative to County, Section, Township and Range; Lot, Block and Subdivision; or a metes and bounds description;

(e) A description of the portion of the works or lands of the District to be used;

(f) Whether the ~~proposed~~ use is a proposed, existing, or a modification of an existing use, or is a new use;

(g) A description of the ~~proposed use of~~ or encroachment on works or lands of the District and in which zone, as depicted in subsection 40E-6.011(7), F.A.C. Figure 1, the ~~proposed~~ use will be located;

(h) At a minimum, Four (4) Six copies of the following a scaled or fully dimensioned 8 1/2 " x 11" drawings, ~~reflecting~~ the ~~proposed~~ use in plan and elevation views, related to the applicable work of the District, and tied to a known reference point in the immediate area of the proposed use. Larger drawings or aerial photographs shall be required, if necessary to adequately show the location and nature of the proposed use. A property survey, indicating the location of the District right of way boundary line, shall also be provided.

1. All drawings shall utilize English units of measure or a combination of both English and metric units of measure. Vertical datum shall be National Geodetic Vertical Datum (1929), North American Vertical Datum (1988), or Mean Sea Level and the datum utilized shall be specified on the drawing(s).

2. All drawings for seawalls or bulkheads and subaqueous or pile supported crossings shall be supported with cross sections of the existing channel. Unless waived or modified by the District pursuant to prior written request by the applicant, soundings for the cross sections shall be taken at 10-foot intervals from top of bank to top of bank and shall be tied to both canal/levee right of way lines. For subaqueous or pile supported crossings a minimum of 3 cross sections shall be supplied by the applicant; one at the point where the proposed crossing crosses the centerline of the canal; and one each upstream and downstream of the crossing at points determined by the District. For seawall or bulkhead projects the District shall determine the number of cross sections required but said cross sections will be no more frequent than one cross section per every 25 feet of proposed bulkheading. Cross sections shall be plotted to the same horizontal and vertical scale using standard 10 x 10 cross section paper or similar CAD format. The cross sections shall have superimposed upon them the design section for the canal at the location and existing cross sectional area below the design water surface shall be accurately calculated by the applicant and printed on or adjacent to each cross section.

3. ~~Except where exempt pursuant to section 471.003, F.S., drawings for bridge crossings, bulkheads, seawall, retaining walls, hard shoreline stabilization and revetment installations shall be signed and sealed by a Florida registered professional engineer.~~

(i) Information sufficient to demonstrate that the ~~proposed~~ use meets the criteria established in the document referred to in Rule 40E-6.091, F.A.C.; and

(j) The estimated length of time needed for completion of the proposed work once construction has begun.

(2) Applications shall be signed by both the owner(s) and/or authorized agent, if applicable.

(3) Applications shall not be considered complete until such time as ~~all required information~~ as the following have been received and accepted by the District:

(a) All requirements set forth in subsections (1) and (2), above,

(b) ~~and~~ insurance and financial assurances in accordance with Rule 40E-6.361, F.A.C.; and

(c) All land interests required for access and/or maintenance easements in connection with applications for permits that impede, ~~have been reviewed by the District access.~~

(4) If the District determines that the application is incomplete, the District shall request the information needed to complete the application within 30 days of its receipt. The applicant shall have 90 days from receipt of a timely request for additional information to submit that information to the District.

Rulemaking Specific Authority 373.044, 373.113 FS. Law Implemented 373.085(1), 373.086, 373.117, 471.003 FS. History—New 9-15-99, Amended _____.

40E-6.221 Conditions for Issuance of ~~Standard~~ Permits.

(1) The District has determined that certain uses shall be authorized under a notice general permit when located in an authorized operational zone and the activity fully complies with all of the criteria set forth in the Criteria Manual, in corporate by reference in Rule 40E-6.091, F.A.C. These uses are set forth in the Permit Index Chart included in the Criteria Manual.

(2)(4) The District has determined that certain uses, not eligible for a notice general permit, shall be authorized under a standard permit when located in an authorized zone and when they comply with the criteria established in the Criteria Manual Basis of Review, incorporated by reference in Rule 40E-6.091, F.A.C. These uses are set forth in the Permit Index Chart included in the Criteria Manual Basis of Review.

(3)(2) In determining whether a ~~standard~~ permit should be issued, the District shall consider whether the ~~proposed~~ activity unduly burdens the District's interests. In making this decision, the District shall weigh the following critical factors:

(a) Interferes with the present or future construction, alteration, operation or maintenance of the works or lands of the District;

(b) Is consistent with the policy and objectives of Chapter 373, F.S., including the legislative declaration of policy contained in Section 373.016, F.S.

(c) Has an actual or potential negative impact upon environmentally sensitive areas, which include: wetlands; endangered or threatened species habitat; aquatic preserves; Outstanding Florida Waters; Class I or Class II waters; federal, state and privately owned parks and wildlife management areas; designated areas of critical state concern; lands purchased by federal, state and local governments for the purpose of environmental protection, water resource protection and aesthetics; and lands which contain native terrestrial plant species in significant amounts. Environmentally sensitive areas include areas on and off-site that are affected by activities which occur on, or are initiated from, the works of the District;

(d) Degrades water quality within the receiving water body or fails to meet the provisions of Ch. 373, F.S., the state water policy, and Title 40E, F.A.C.;

(e) Involves a discharge of wastewater from a new wastewater source or an increased discharge from an existing wastewater source;

(f) Will discharge debris or aquatic weeds into works of the District or cause erosion or shoaling within the works of the District;

(g) Is supported by financial assurances, which will ensure that the proposed activity will be conducted in accordance with Chapter 373, F.S., and Chapter 40E-6, F.A.C.;

(h) Interferes with scientific activities;

(i) Presents an increased liability risk to the District;

(j) Meets the general and specific criteria in the Criteria Manual Basis of Review which is incorporated by reference in Rule 40E-6.091, F.A.C.;

(k) Interferes with actual or potential public use of the District's works or lands, including public recreational or other facilities not within the District's works;

(l) Meets applicable criteria in Chapters 40E-61 ~~and 40E-62,~~ F.A.C.

(m) The nature of the District's property interest.

(n) Any and all above-ground facilities located within the clear 40 foot wide right of way, as set forth in subsection 40E-6.011(4), F.A.C., or within the right of way at locations where the right of way is less than 40 feet wide, as measured from the top of the canal bank landward, are prohibited, except for:

1. Safety features associated with public works projects; and
2. Installations necessary to support District works, including but not limited to utilities.

~~(4)(3)~~ The District shall consider a permit applicant's past and present violation of any District rules or permit conditions, including enforcement action, when determining whether the applicant has provided reasonable assurances that District standards will be met.

~~(5)(4)~~ Activities which can be carried out through the District's real property acquisition and disposal policy will not be eligible for a permit under this chapter.

~~(6)(5)~~ The District shall also consider the cumulative impact of allowing the proposed use. Based upon the cumulative impact of allowing similar uses in the affected area, the District shall deny uses which appear insignificant with regard to the above criteria if the cumulative impact is significant.

~~(7)(6)~~ The structural integrity of bridges across District works or lands shall be certified by a professional engineer registered in the State of Florida, except as provided in Section 471.003, F.S.

~~(8)(7)~~ In those instances where the District does not own the underlying fee simple title, applicants may be required to show the necessary legal interest from the owner of the underlying fee. The District does not, however, assume any duty to protect the legal rights of the underlying fee owner.

~~(9)(8)~~ Except for utilities, no commercial uses on the District's fee-owned rights of way will be authorized by a Right of Way Occupancy Permit, but may be authorized by a lease and/or agreement with the District allowed on District rights of way. There shall, however, be no presumption against allowing commercial use of the District's right of way by utilities. non fee-owned rights of way by the underlying fee-owner may be allowed, provided such authorizations take into consideration those determining factors set forth in subsection 40E-6.221(3), F.A.C.

~~(10)(9)~~ Except for utilities and governmental entities, both essential and non-essential, an applicant must own or lease the land underlying or adjacent to or served by the portion of the works or lands of the District involved.

~~(11)(10)~~ In addition to the requirements and restrictions set forth in subsections (1) through (9), the District, due to its proprietary interest in its lands and works, possesses and exercises all the rights and remedies available to owners of real property through statutory and common law.

(12) The Limiting Conditions set forth in Rule 40E-6.361, F.A.C. shall be incorporated into every Permit issued.

(13) Special Conditions that are site specific shall be incorporated into every Permit as may be necessary in the best interest of the District.

Rulemaking Specific Authority 373.044, 373.113 FS. Law Implemented 373.016, 373.085, 373.086, 373.117, 471.003 FS. History--New 9-15-99, Amended _____.

40E-6.321 Duration of Permits.

(1) Permits issued prior to the effective date of ~~??new date?? September 15, 1999,~~ and which do not comply with the ~~Criteria Manual Basis of Review~~ incorporated by reference in Rule 40E-6.091, F.A.C., shall expire upon the change of ownership of the property unless transferred pursuant to Rule 40E-6.351, F.A.C., below. ~~However, these authorizations may shall not~~ be transferred to a new property owner if the activity complies with paragraphs 40E-6.221(3)(a)-(i), (m). ~~Otherwise it and~~ must be immediately removed from the District's right of way ~~unless a new permit application has been submitted and approved by the District.~~

(2) Unless revoked or otherwise modified, the duration of a right of way occupancy permit is:

(a) As set forth in the permit, including the special conditions to the permit; or

(b) After construction is complete, perpetual, unless revoked.

(3) Once issued, a permit is valid to ~~Permits authorizing construction expire automatically on~~ the date indicated on the face of the permit; unless construction of the authorized facilities has begun. ~~Otherwise,~~ a written request for extension must be is received by the District on or before the expiration date. If an extension has not been requested prior to the expiration of the permit, a new application, including the application processing fee, must be submitted. ~~Upon the expiration of a permit, all construction activities must cease until the new permit has been issued. Extensions of the construction period may be granted administratively, or in cases involving litigation, environmental, water resource, or other impact, shall be referred to the Governing Board for final action.~~ The District has the right to shall decline ~~the to~~ extension of a permit authorizing construction if the proposed use is no longer consistent with the objectives of the District or other provisions of these rules.

Rulemaking Specific Authority 373.044, 373.113 FS. Law Implemented 373.085, 373.086 FS. History--New 9-3-81, Formerly 16K-5.07, Amended 12-29-86, 9-15-99, _____.

40E-6.331 Modification of Permits.

(1) Applications for permit modifications required by this Chapter shall be filed by formal application, including the permit modification application fee, with the District.

(2) Applications for modification to permitted uses shall be reviewed using the same criteria as new applications, pursuant to Rules 40E-6.091, ~~40E-6.121,~~ and 40E-6.221, F.A.C.

(3) Letter modifications may be issued by District staff, provided the requested modification:

- (a) Does not substantially alter the permit authorization;
- (b) Does not interfere with construction, operation and maintenance of District lands or works; and

(c) Is otherwise consistent with the purposes and policies of Chapter 373, F.S., and Chapter 40E-6, F.A.C.

(4) Under sections 373.083 and 373.085, F.S., the District is authorized to modify a permit when it determines that the currently permitted use has become inconsistent with the factors and conditions enumerated in Rules ~~40E-6.121 and 40E-6.221~~, F.A.C.

(5) Permit modifications may be initiated by the District in accordance with the provisions of Chapter 40E-1, F.A.C.

Rulemaking Specific Authority 373.044, 373.113 FS. Law Implemented 373.016, 373.085, 373.086 FS. History—New 9-3-81, Formerly 16K-5.11(1), Amended 12-29-86, 12-24-91, 9-15-99,_____.

40E-6.341 Revocation of Permits.

(1) Under Sections 373.083 and 373.085, F.S., the District is authorized to revoke a right of way occupancy permit under any of the following circumstances:

(a) The Permittee or his agent has committed any of the acts enumerated in Rule 40E-1.609, F.A.C.;

(b) The permitted use interferes or will interfere with the construction, alteration, operation, or maintenance of present or proposed works or lands of the District;

(c) The Permittee has failed to immediately comply with an emergency or other order issued pursuant to Rules ~~40E-1.611 and 28-106.501~~ 28-107.005, F.A.C.;

(d) The permitted use is no longer consistent with the factors and conditions enumerated in Rules ~~40E-6.121 and 40E-6.221~~, F.A.C., the provisions of Chapter 373, F.S., Title 40E, F.A.C., and the state water policy, Chapter 62-40, F.A.C.;

(e) The permitted use is inconsistent with any provision of this rule, or any subsequent revisions to this rule, including any provision of the Criteria Manual Basis of Review, incorporated by reference in Rule 40E-6.091, F.A.C.; or

(f) The permitted use is no longer consistent with District policy, based upon a change in District policy.

(2) Right of Way Occupancy Permits are subject to immediate revocation by the District's Executive Director with the concurrence of the Governing Board if an emergency condition exists and the continued exercise of the permit might endanger lives, human safety or property.

(3) Revocations for reasons specified in subsection (1) shall be conducted in accordance with the procedures specified in Rules 40E-1.609 and 28-107.004, F.A.C. Emergency revocations under subsection (2) shall be conducted in accordance with the procedures specified in Rule 28-107.005, F.A.C.

(4) The provisions herein shall take precedence over the general revocation provisions set forth in paragraphs 40E-1.609(1)(a) through (e), F.A.C., as the permit program governing use of works and lands of the District is a

proprietary based program. To the extent there is any conflict between the general provisions of Chapter 40E-1, F.A.C., the specific provisions of Chapter 40E-6, F.A.C., shall prevail.

Rulemaking Specific Authority 373.044, 373.113 FS. Law Implemented 120.60(5), 373.085, 373.086, 373.129 FS. History—New 9-3-81, Formerly 16K-5.07(3), (4), Amended 12-29-86, 12-24-91, 9-15-99,_____.

40E-6.351 Transfer of Permits.

(1) As the District has no control over the sale or transfer of real or personal property, it is the sole obligation of a Permittee or their agent to disclose the existence of a Right of Way Occupancy Permit, its terms and conditions, to prospective purchasers.

(2) Right of Way Occupancy Permits shall be transferred when:

(a) The request is otherwise consistent with the provisions of these rules and Chapter 373, F.S.

(b) The applicant demonstrates that the permitted use still qualifies for a permit under Rules ~~40E-6.121 or 40E-6.221~~, F.A.C.

(c) The applicant agrees to abide by the provisions of Chapter 373, F.S., this chapter, and the terms and conditions of the permit, including these rules, including the standard limiting conditions, and criteria which are applicable at the time of the request for transfer.

(d) The adjoining land use has not changed.

(e) The request for transfer is accompanied, ~~when required~~, with the correct fee as set forth in paragraph 40E-6.601(3)(j), F.A.C.

(f) The applicant authorizes the District ~~agrees to~~ record a Notice of Permit in the official records of the county clerk's office where the project is located ~~as specified by the District~~.

(g) In cases where unauthorized facilities or uses have been added that are not included in the permit authorization, a permit transfer request must also be accompanied by a request for modification pursuant to Rule 40E-6.331, F.A.C.

~~(3) Right of Way Occupancy Permits will be transferred without a fee when the request for transfer is received within twelve (12) months from the change of ownership, as evidenced by the date of transfer of ownership appearing in the deed or other instrument of conveyance.~~

~~(4) Requests for transfer of Right of Way Occupancy Permits shall be assessed a fifty (\$50.00) dollar processing fee when the request is received by the District more than twelve (12) months from the date of change of ownership but prior to eighteen (18) months from the change of ownership, as evidenced by the date of transfer of ownership appearing in the deed or other instrument of conveyance.~~

~~(5) Transfers requested more than 18 months from the date of change of ownership shall be denied and require the submission of an application and the appropriate application processing fee.~~

~~(3)(6)~~ All transfers require a field inspection and shall not become effective until such inspection is conducted and confirms all existing facilities and uses are permitted and ~~all uses~~ comply with the criteria in Rule 40E-6.091, F.A.C., and the conditions of issuance in Rules ~~40E-6.121 or~~ 40E-6.221, F.A.C. If additional facilities are present, no transfer will be allowed unless the unauthorized facility or use is removed immediately and the right of way restored; or Applicants must submit a new ~~standard~~ permit application, along with the appropriate application processing fee, for all additional facilities not removed and not currently authorized by a Right of Way Occupancy Permit.

~~(4)(7)~~ The District staff shall not issue transfers until all financial assurance and insurance requirements, if any, have been provided and accepted by the District staff.

Rulemaking Specific Authority 373.044, 373.109, 373.113 FS. Law Implemented 373.085, 373.086, 373.109 FS. History—New 9-3-81, Formerly 16K-5.10, 16K-5.11(2), 16K-5.12, Amended 12-29-86, 9-15-99, _____.

40E-6.361 Financial Assurances and Insurance.

(1) The District shall require the applicant requesting a right of way occupancy permit to provide and maintain financial assurances to the District and its successors, in the form of a cash bond to be held by the District in a non-interest bearing account, a performance bond issued by a licensed bonding company, a letter of credit issued by a financial institution authorized to do business in the State of Florida, or other such instrument approved by the District to ensure full compliance with terms of the permit, including the proper construction, operation, and maintenance of the facility. The amount and type of financial assurance shall be determined by the District.

(a) In instances where the District authorizes use of its rights of way as a temporary haul or access road, which does not include crossing over District structures or associated facilities, the amount of the financial assurance shall be Five Thousand (\$5,000.00) Dollars per half mile or multiple thereof, with a minimum amount of Five Thousand (\$5,000.00) Dollars.

(b) In instances where the District authorizes the construction of a private bridge on or across the District's right of way, the amount of the financial assurance shall be based upon a professional engineer's or certified demolition company's itemized estimate, to be provided by and paid for by the applicant, of the cost of the demolition of the bridge, removal of the debris, and restoration of the right of way. Such estimates shall be reviewed and approved by District staff.

(c) In instances where the District authorizes the installation of a water or sewer force main installation on or across the District's right of way other than those constructed by governmental entities, the amount of the financial assurance shall be based upon a professional engineer's or certified demolition company's itemized estimate, to be provided by and

paid for by the applicant, of the cost of the demolition of the water or sewer force mains, removal of the debris, and restoration of the right of way. Such estimates shall be reviewed and approved by District staff. Upon acceptance by the governmental entity of the facility and the issuance of a permit transfer by District staff, such financial assurances shall be released.

(d) Any other uses of the District's right of way authorized by the District are subject to adequate financial assurances as determined necessary and reasonable by District staff based upon a complete review of the unique circumstances and the potential liability, both personal injury and property damage, and environmental risks involved with the specific authorized use.

(2) In addition to the provision for financial assurances as provided in subsection (1), above, the District shall require liability insurance, naming the District as an additional insured, in such amount and type as the District staff determines necessary. All insurance must be written by a company duly authorized to do business in the State of Florida or provided pursuant to a self insurance program consistent with the requirements of Florida law.

(3) Any applicable financial assurance or insurance requirement set forth above shall be maintained as a condition of the continued validity of the right of way occupancy permit.

Rulemaking Specific Authority 373.044, 373.113 FS. Law Implemented 373.085, 373.086, 373.103 FS. History—New 9-15-99, Repromulgated _____.

40E-6.381 Limiting Conditions.

The District's authorization to utilize lands and other works constitutes a revocable license (including both notice general permits and standard permits). In consideration for receipt of that license, Permittees shall agree to be bound by the following standard limiting conditions, which shall be included within all permits issued pursuant to this chapter:

(1) All structures on District works for lands constructed by Permittee shall remain the property of Permittee, who shall be solely responsible for ensuring that such structures and other uses remain in good and safe condition. Permittees are advised that other federal, state and local safety standards may govern the occupancy and use of the District's lands and works. The District assumes no duty with regard to ensuring that such uses are so maintained and assumes no liability with regard to injuries caused to others by any such failure.

(2) Permittee solely acknowledges and accepts the duty and all associated responsibilities to incorporate safety features, which meet applicable engineering practice and accepted industry standards, into the design, construction, operation and continued maintenance of the permitted facilities/authorized use. This duty shall include, but not be limited to, Permittee's consideration of the District's regulation and potential fluctuation, without notice, of water

levels in canals and works, as well as the Permittee's consideration of upgrades and modifications to the permitted facilities/authorized use which may be necessary to meet any future changes to applicable engineering practice and accepted industry standards. Permittee acknowledges that the District's review and issuance of this permit, including, but not limited to, any field inspections performed by the District, does not in any way consider or ensure that the permitted facilities/authorized use is planned, designed, engineered, constructed, or will be operated, maintained or modified so as to meet applicable engineering practice and accepted industry standards, or otherwise provide any safety protections. Permittee further acknowledges that any inquiries, discussions, or representations, whether verbal or written, by or with any District staff or representative during the permit review and issuance process, including, but not limited to, any field inspections, shall not in any way be relied upon by Permittee as the District's assumption of any duty to incorporate safety features, as set forth above, and shall also not be relied upon by Permittee in order to meet Permittee's duty to incorporate safety features, as set forth above.

(3) Permittee agrees to abide by all of the terms and conditions of this permit, including any representations made on the permit application and related documents. This permit shall be subject to the requirements of Chapter 373, F.S., and Chapter 40E-6, F.A.C., including all subsequent rule and criteria revisions. Permittee agrees to pay all removal and restoration costs, investigative costs, court costs and reasonable attorney's fees, including appeals, resulting from any action taken by the District to obtain compliance with the conditions of the permit or removal of the permitted use. If District legal action is taken by staff counsel, "reasonable attorney's fees" is understood to mean the fair market value of the services provided, based upon what a private attorney would charge.

(4) This permit does not create any vested rights, and except for governmental entities and utilities, is revocable at will upon reasonable prior written notice. Permittee bears all risk of loss as to monies expended in furtherance of the permitted use. Upon revocation, the Permittee shall promptly modify, relocate or remove the permitted use and properly restore the right of way to the District's satisfaction. In the event of failure to so comply within the specified time, the District may remove the permitted use and Permittee shall be responsible for all removal and restoration costs.

(5) This permit does not convey any property rights nor any rights or privileges other than those specified herein and this permit shall not, in any way, be construed as an abandonment or any other such impairment or disposition of the District's property rights. The District approves the permitted use only to the extent of its interest in the works of the District. Permittee shall obtain all other necessary federal, state, local, special district and private authorizations prior to

the start of any construction or alteration authorized by the permit. Permittee shall comply with any more stringent conditions or provisions which may be set forth in other required permits or other authorizations. The District, however, assumes no duty to ensure that any such authorizations have been obtained or to protect the legal rights of the underlying fee owner, in those instances where the District owns less than fee.

(6) Unless specifically prohibited or limited by statute, Permittee agrees to indemnify, defend and save the District (which used herein includes the District and its past, present and/or future employees, agents, representatives, officers and/or Governing Board members and any of their successors and assigns) from and against any and all lawsuits, actions, claims, demands, losses, expenses, costs, attorneys fees (including but not limited to the fair market value of the District's in-house attorneys' fees based upon private attorneys' fees/rates), judgments and liabilities which arise from or may be related to the ownership, construction, maintenance or operation of the permitted use or the possession, utilization, maintenance, occupancy or ingress and egress of the District's right of way which arise directly or indirectly and are caused in whole or in part by the acts, omissions or negligence of the ~~Permittee District~~ or of third parties. Permittee agrees to provide legal counsel acceptable to the District if requested for the defense of any such claims.

(7) The District does not waive sovereign immunity in any respect.

(8) The Permittee shall not engage in any activity regarding the permitted use which interferes with the construction, alteration, maintenance or operation of the works of the District, including:

(a) Discharge of debris or aquatic weeds into the works of the District;

(b) Causing erosion or shoaling within the works of the District;

(c) Planting trees or shrubs or erecting structures which limit or prohibit access by District equipment and vehicles, except as may be authorized by the permit. Permittee shall be responsible for any costs incurred by the District resulting from any such interference, as set forth in paragraphs (a), (b), and (c), above.

(d) Leaving construction or other debris on the District's right of way or waterway;

(e) Damaging District berms and levees;

(f) The removal of District owned spoil material;

(g) Removal of or damage to District locks, gates, and fencing;

(h) Opening of District rights of way to unauthorized vehicular access; or

(i) Running or allowing livestock on the District's right of way.

(9) The District is not responsible for any personal injury or property damage which may directly or indirectly result from the use of water from the District's canal or any activities which may include use or contact with water from the District's canal, since the District periodically sprays its canals for aquatic weed control purposes and uses substances which may be harmful to human health or plant life.

(10) Permittee shall allow the District to inspect the permitted use at any reasonable time.

(11) Permittee shall allow, without charge or any interference, the District, its employees, agents, and contractors, to utilize the permitted facilities before, during and after construction for the purpose of conducting the District's, routine and emergency, canal operation, maintenance, and construction activities. To the extent there is any conflicting use, the District's use shall have priority over the Permittee's use.

(12) This permit is a non-exclusive revocable license. Permittee shall not interfere with any other existing or future permitted uses or facilities authorized by the District.

(13) The District has the right to change, regulate, limit, schedule, or suspend discharges into, or withdrawals from, works of the District in accordance with criteria established by the Big Cypress Basin, the District, or the U.S. Army Corps of Engineers for the works of the District.

(14) If the use involves the construction of facilities for a non exempt water withdrawal or surface water discharge, the applicant must apply for and obtain a water use or surface water management permit before or concurrently with any activities which may be conducted pursuant to the right of way occupancy permit.

(15) The District shall notify the local ad valorem taxing authority of the lands affected by the permitted use, where the Permittee owns the underlying fee and derives a substantial benefit from the permitted use. The taxing authority may reinstate such lands on the tax roll. Failure to pay all taxes in a timely manner shall result in permit revocation. Such permit revocation shall not alleviate the responsibility of the Permittee to pay all taxes due and payable.

(16) Permittee shall provide prior written notice to their successors in title of the permit and its terms and conditions.

(17) Permittee authorizes the District to shall record a Notice of Permit through filing the appropriate notice ~~agreed to by the District~~ in the public records of the county or counties where the project is located ~~and by providing the District with proof of filing or through an equivalent procedure. All costs associated with this requirement shall be the responsibility of the permittee.~~ Governmental entities and utilities are not subject to this provision.

~~(18) This permit is contingent upon compliance with the recording of the Notice of Permit. Failure to provide proof of the recording of the Notice of Permit will result in the permit becoming invalid on its own terms, the removal of any existing~~

~~facilities within the right of way, restoration of the right of way to the District's satisfaction, at the permittee's expense, and the possible assessment of civil penalties.~~

~~(18)(19)~~ Permittee shall be responsible for the repair or replacement of any existing facilities located within the District's right of way which are damaged as a result of the installation or maintenance of the authorized facility.

~~(19)(20)~~ All obligations under the terms of this permit authorization and any subsequent modifications hereto shall be joint and several as to all owners.

~~(20)(21)~~ It is the responsibility of the Permittee to make prospective bidders aware of the terms and conditions of this permit. It shall be the responsibility of the Permittee's contractors to understand the terms and conditions of this permit and govern themselves accordingly.

~~(21)(22)~~ It is the responsibility of the Permittee to bring to the attention of the District any conflict in the permit authorization or permit conditions in order that they may be resolved prior to the start of construction. In resolving such conflicts the District's determination will be final.

(22) Special Conditions that are site specific shall be incorporated into every Permit as may be necessary in the best interest of the District.

(23) The District is not responsible for the repair of, or claims of, damage to any facilities and uses which may incur damage resulting from the District's utilization of its rights of way or use by third parties. Improvements placed within the right of way are done so at the sole risk of the owner.

Rulemaking Specific Authority 373.044, 373.113 FS. Law Implemented 373.085(1), 373.086, 373.103, 373.109, 373.129, 373.1395, 373.603, 373.609, 373.613 FS. History--New 9-3-81, Formerly 16K-5.01(2), 16K-5.02(2), 16K-5.03(2), 16K-5.04(4), 16K-5.05, Amended 5-30-82, 12-29-86, 12-24-91, 9-15-99,

40E-6.451 Emergency Authorization.

(1) Permission to begin use of works or lands of the District prior to the issuance of a permit shall be granted pursuant to Rule ~~40E-1.6115~~ and 40E-0.108, F.A.C.

(2) All requests for emergency authorizations must be submitted with both the emergency application processing fee set forth in paragraph 40E-6.601(2)(h), F.A.C., in addition to the applicable standard permit application processing fee set forth in paragraphs 40E-6.601(2)(d) through (g), F.A.C.

(3) In order to be eligible for an emergency permit authorization the applicant must have already filed a standard permit application with the District or simultaneously file a standard permit application with the District.

(4) In addition to the required standard permit application contents, the applicant must also file a written statement with the District which fully explains the basis and circumstances which support and justify the request for emergency authorization.

(5) Mere carelessness or lack of planning on the part of the applicant shall not be sufficient grounds to warrant the granting of an emergency authorization.

(6) The Executive Director may grant an emergency authorization pursuant to Section 373.119(2), F.S.

Rulemaking Specific Authority 373.044, 373.113 FS. Law Implemented 373.085, 373.086, 373.119, 373.439 FS. History—New 9-3-81, Formerly 16K-5.08, Amended 12-29-86, 7-2-98, 9-15-99,_____.

40E-6.481 Emergency Measures.

(1) In addition to the provisions of Rule 40E-6.521, F.A.C., permitted uses are also subject to immediate alteration, repair or removal if an emergency condition exists and the continued exercise of the permitted use might endanger lives or property.

(2) In such event the Ppermittee shall immediately comply with any written or oral instructions from the District regarding alteration, repair or removal of the permitted use.

(3) If the Ppermittee fails to remove, alter or repair a permitted use when so ordered by the District, the District may repair, alter or remove it at the Ppermittee's expense.

(4) Permittee may request an administrative hearing regarding the emergency order in accordance with the procedures set forth in Rule 28-107.004, F.A.C.

(5) In addition to the provision of Rule 40E-6.521, F.A.C., unpermitted uses are also subject to the provisions of this section.

(6) In no circumstances shall the District be responsible for any claims or damages caused in whole or in part, from any necessary emergency removal, alteration, or repair of any permitted or unpermitted use.

(7) All permitted and unpermitted uses are subject to the specific terms of an Emergency Order(s) which may be issued by the District.

Rulemaking Specific Authority 373.044, 373.113 FS. Law Implemented 373.085, 373.086, 373.119, 373.439 FS. History—New 9-3-81, Formerly 16K-5.08, Amended 12-29-86, 7-2-98, 9-15-99,_____.

40E-6.501 Unlawful Use and Civil Penalties.

(1) It shall be unlawful to connect with, place structures in or across, or otherwise make use of works or lands of the District without a Right of Way Occupancy Permit. The District may use any remedy available to it under Florida common law and statutory law and the District's rules, to remove or cause the unpermitted use to be removed, as well as the assessment of civil penalties pursuant to this rule.

(2) It shall be unlawful for any Ppermittee to violate the provisions of Chapter 373, F.S., Chapter 40E-6, F.A.C., or the terms and conditions of a Right of Way Occupancy Permit. The District shall use any remedy available to it under Florida common law and statutory law and the District's rules, to remove or cause the unpermitted use to be removed, as well as

the assessment of civil penalties pursuant to this rule. The District shall, in furtherance of the purposes of Chapter 373, F.S., allow the permitted use to be brought into compliance with the permit by means of a permit modification if the unlawful use complies with the criteria set forth in Rule 40E-6.091, F.A.C.

(3) Damage to works or lands of the District resulting from the violations specified in subsections (1) and (2), above, shall, within the timeframes and in a manner consistent with the District's requirements, be repaired by the violator to the satisfaction of the District, however, the District reserves the right to make any and all necessary repairs, the full cost of which shall be the responsibility of the violator.

(4) Violators shall be responsible for payment of civil penalties up to \$10,000.00 per day, per violation, pursuant to Section 373.129, F.S., investigative costs and the District's attorney's fees (including appeals).

(5) Factors considered in the assessment of civil penalties shall be:

- (a) Habitual violator;
- (b) Threat to health, safety, and welfare (flooding);
- (c) Immediacy of threat;
- (d) Severity of impact (size of drainage basin);
- (e) Potential for damage to surrounding property;
- (f) Threat to District staff if self-help used;
- (g) Exposure of District to other liabilities;
- (h) Environmental impact;
- (i) Water quality; and
- (j) Unusual circumstances.

(6) Vessels which are being occupied or used as a temporary or permanent residence or business, or other vessels which have an adverse impact on the District's ability to construct, operate, and maintain its canals and structures, will not be permitted within District works or lands. However, this limitation shall not be construed to prohibit vessels which are actively navigating from place to place.

(7) The planting of any ~~non-native~~ vegetation not included on the District's designated plant list or specifically authorized by District permit within District works or lands will not be permitted.

(8) The abandonment of personal property within District works or lands will not be permitted.

(9) Use of the works or lands of the District as a temporary or permanent place of residence or shelter will not be permitted.

(10) It shall be unlawful for any person or entity to remove any spoil, without authorization from the District, and the District specifically reserves any and all rights to pursue such violations in both criminal and civil proceedings, in addition to the provisions contained herein.

Rulemaking Specific Authority 373.044, 373.113, 373.129 FS. Law Implemented 373.085, 373.086, 373.603, 373.609, 373.613 FS. History--New 9-15-99, Amended _____.

40E-6.521 Self Help.

(1) Unlawful uses or facilities placed within the works or lands of the District are subject to removal and restoration at the District's discretion with no guarantee of salvage ability. In no circumstances shall the District be responsible for any claims or damages caused, in whole or in part, from any self help removal and restoration of any unlawful uses or facilities.

(2) When employing self help, the District is not required to provide any notice of its intended action.

(3) The District may seek to recover removal and restoration costs, investigative costs, and attorneys' fees and costs (including appeals) incurred in carrying out self help done to resolve the unlawful use of District works and lands.

Rulemaking Specific Authority 373.044, 373.113, 373.129 FS. Law Implemented 373.085, 373.086, 373.603, 373.609, 373.613 FS. History--New 9-15-99, Repromulgated _____.

40E-6.601 Permit Application Processing Fees.

(1) A permit application processing fee is required and shall be paid to the District when applications are filed pursuant to District rules to connect with and make use of the works or ~~and~~ lands of the District. An application is not deemed complete and shall not be processed until the appropriate application fee is submitted. These fees are assessed in order to defray the cost of evaluating, processing, and mailing required in connection with consideration of such applications. 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 incorrect.

(2) Based upon years of experience in reviewing applications for District right of way occupancy permits, the District has determined that applications for existing facilities or uses require additional staff time and resources (as compared to proposed facilities) in order to thoroughly review and inspect, and this differential shall be reflected in the application processing fees for all right of way occupancy permit authorizations as set forth herein.

(3) The fee for permit applications reviewed pursuant to Chapter 40E-6, F.A.C., are as follows:

(a) Notice General Permit Application, Notice General Permit Modification Application relating to a single family residential use (Category NGP-1) No Fee

Existing, unpermitted facilities which would otherwise be eligible for a NGP-1 shall pay the Category SP-1 fee, below.

(b) Notice General Permit Application, Notice General Permit Modification Application for uses proposed by homeowners associations and condominium associations relating to more than one individual lot or dwelling unit(Category NGP-2) \$150.00

Existing, unpermitted facilities which would otherwise be eligible for a NGP-2 shall pay the Category SP-2 fee, below.

(c) Notice General Permit Application, Notice General Permit Modification Application for uses proposed by developers, builders, corporate entities, utilities, county, state, or local entities (Category NGP-3) \$300.00.

Existing, unpermitted facilities which would otherwise be eligible for a NGP-3 shall pay the Category SP-3 fee, below.

(d) Notice General Permit Application, Notice General Permit Modification Application relating to bridges, excluding culvert bridges (Category NGP-4) \$900.00.

Existing, unpermitted facilities which would otherwise be eligible for a NGP-4 shall pay the Category SP-4 fee, below.

(e) Standard Permit Application, Standard Permit Modification Application relating to a single family residential use which does not meet Notice General Permit Criteria (Category SP-1) \$75.00;

(f) Standard Permit Application, Standard Permit Modification Application relating to uses by homeowners associations and condominium associations and do not meet Notice General Permit Criteria (Category SP-2) \$300.00;

(g) Standard Permit Application, Standard Permit Modification Application relating to uses by developers, builders, corporate entities, utilities, county, state, or local entities, as well as all other uses not covered in Categories SP-1, SP-2 and SP-4 (Category SP-3) \$625.00;

(h) Standard Permit Application, Standard Permit Modification Application relating to uses involving bridges, linear parks, greenways, similar park and recreation projects, marinas and associated facilities (Category SP-4) \$1750.00;

(i) Application for emergency authorization pursuant to Rule 40E-6.401, F.A.C. \$275.00;

(j) Requests for Transfer of Right of Way Occupancy Permits, pursuant to Transfer Fees are set forth in Rule 40E-6.351, F.A.C., above. (Transfer) \$50.00.

(4) Notwithstanding the provisions set forth in this rule, upon request, the District shall waive any and all right of way occupancy permit application processing fees for right of way occupancy permit applications submitted by the governing body of a governmental entity only if provided with a resolution or other documentation as to the reciprocity commitment of the respective governmental entity applying for the right of way occupancy permit and clearly establishing that governmental entity's reciprocal waiver of any and all fees required for the District to carry out canal operation, maintenance, and construction activities for the District.

(5) Notwithstanding the provisions set forth in this rule, no permit application processing fee will be required from utilities or other necessary service providers, where the permitted facility or use of the works or lands of the District is required to supply utility or other necessary service to an existing or proposed District facility.

(6) The above permit application processing fees shall not apply to either the Seminole Tribe of Florida or the Miccosukee Tribe of Indians of Florida for facilities and uses located exclusively within the boundaries of their respective reservations or included in leases with the District.

Rulemaking Specific Authority 373.044, 373.109, 373.113 FS. Law Implemented 373.109, 373.085, 373.086 FS. History—New 9-15-99, Amended _____.

40E-6.701 C-18 Policy and Purpose.

In addition to the policies and purposes enumerated in Rule 40E-6.011, F.A.C., the C-18 canal right of way, downstream of the District's S-46 structure, was established as a revegetation area in order to implement a policy for revegetation of the C-18 canal right of way through the use of a small scale land use plan. The intent of the revegetation plan ("C-18 Plan") is to restore the natural river values of the northwest fork of the Loxahatchee River and Limestone Creek for the benefit of all canal right of way users. The purposes of the revegetation plan include maintenance of flood control protection, increasing diversity and desirability of wildlife habitat, providing filtering and water quality benefits, and considering the goals of adjacent landowners.

Rulemaking Authority 373.044, 373.113 FS. Law Implemented 373.085, 373.086 FS. History—Formerly 40E-62.021, New _____.

40E-6.711 C-18 Canal Right of Way Boundary.

The boundary of the C-18 canal right of way which is the subject of this rule lies east of District Structure S-46 to the easterly limit of the Canal right of way. The boundary is generally depicted on the map in Figure 62-1. The map is for illustrative purposes only and should not be relied upon for conveyances of title to real property.

Rulemaking Authority 373.044, 373.113 FS. Law Implemented 373.085, 373.086 FS. History—Formerly 40E-62.023, New _____.

40E-6.721 C-18 Permits Required.

In addition to the requirements of subsection 40E-6.041(1), F.A.C.:

(1) An occupancy permit must be obtained prior to removing, maintaining, or pruning vegetation, mooring boats, and placing other items on, across, under, or upon District lands and works along the C-18 canal right of way.

(2) General Permits shall be issued for occupancy or uses of the C-18 right of way that are consistent with the use zones provided in Rule 40E-6.751, F.A.C.

(3) The District shall require a standard right of way occupancy permit pursuant to Rule 40E-6.221, F.A.C., for any occupancy or use of the C-18 right of way which does not comply with the C-18 revegetation plan set forth herein.

(4) Occupancy or uses of the C-18 right of way which are inconsistent with the use zones provided for in Rule 40E-6.751, F.A.C., will not be eligible for a general permit under these rules.

(5) All projects located within the C-18 canal right of way which require permits pursuant to Rules 40E-6.041 and 40E-6.721, F.A.C., shall be constructed, altered, operated, and maintained in accordance with the standards and criteria specified in Rules 40E-6.091, 40E-6.201, and 40E-6.751, F.A.C. The most restrictive criteria will apply unless the applicant can demonstrate to the District's satisfaction through accepted methodology that the policy and purpose of C-18 revegetation plan will be fulfilled using alternative criteria.

(6) An occupancy permit issued pursuant to this Part may be revoked if the permitted use or maintenance practices are no longer consistent with the use zones specified in Rule 40E-6.751, F.A.C.

Rulemaking Authority 373.044, 373.113 FS. Law Implemented 373.085, 373.086 FS. History—Formerly 40E-62.041, 40E-62.042, 40E-62.043, 40E-62.341, New _____.

40E-6.731 C-18 Exemptions.

(1) No permit is required under this Part for the improved boat docks in existence as of September 3, 1981, which include, but may not be limited to the boat dock located on lot 25.2, Figure 62-1, on the south side of the C-18 canal approximately 1900 feet west of Loxahatchee River Road (the Moore dock).

(2) The exemption provided in section (1) above shall be in effect for as long as the property owner on the established date for the C-18 revegetation plan (1-23-1990), owns and occupies the premises. A change in ownership or occupancy of the designated lot shall subject the boat dock to the requirements of the C-18 plan.

Rulemaking Authority 373.044, 373.113 FS. Law Implemented 373.085, 373.086 FS. History—Formerly 40E-62.051, New _____.

40E-6.741 C-18 Limiting Conditions.

All projects which have been permitted pursuant to the C-18 Plan shall be subject to the following limiting conditions, in addition to all limiting conditions set forth in Rule 40E-6.381, F.A.C.:

(1) Maintenance practices or other activities not authorized by an occupancy permit which result in clearing or destruction of plant materials or modification of ground slopes or elevations shall be corrected by the permittee. Should the correction not be performed in a timely manner, the District may pursue corrective action against the permittee. In the event the permittee does not pursue the necessary corrective action, District forces may perform the work. In the event District forces perform the restorative work, the permittee shall be liable for the restoration costs.

(2) The District may install access control fences on District property on the C-18 right of way at locations to be determined by the District. Access control fences may obstruct or eliminate the view corridor overlay zones associated with said fence.

(3) The District may modify the vegetation on District property on the C-18 right of way at locations to be determined by the District.

(4) The permittee shall not engage in any activity in the area associated with the permit which interferes with the District's construction, alteration, maintenance or operation of the C-18 canal right of way, and shall be responsible for any costs incurred by the District resulting from any such interference including, but not limited to:

(a) Discharging debris or aquatic weeds into the C-18 canal, including the renovated portions of Limestone Creek;

(b) Causing erosion or shoaling within the C-18 canal right of way;

(c) Mooring watercraft or other floating objects;

(d) Planting plants which are not included in the District's authorized plant list or which are not authorized by the permit;

(e) Placing plants in undesirable locations or locations not authorized by the permit.

(5) The permittee shall not engage in any activity which interferes with the environmental preservation and enhancement of the C-18 canal right of way, including, but not limited to:

(a) Trimming or removing existing natural mangroves unless in strict accordance with current permits;

(b) Trimming or removing vegetation along the C-18 canal right of way.

(6) The limiting conditions provided by Rule 40E-6.381, F.A.C.

Rulemaking Authority 373.044, 373.113 FS. Law Implemented 373.083, 373.085, 373.086, 373.103, 373.129 FS. History—Formerly 40E-62.381, New _____.

40E-6.751 C-18 Use Zones.

(1) The following sections identify and describe the eight use zones that have been established within the C-18 canal right of way. Three of the use zones are identified as overlay zones. The overlay zones occupy lands in common with the other use zones and further define the use regulations in the underlying zone area. The eight use zones are:

(a) Canal Flood Zone;

(b) General Wildlife Area Zone;

(c) Limestone Creek Shallow Zone;

(d) Limestone Creek Zone;

(e) Fire Control Zone;

(f) Intertidal Wet Area Overlay Zone;

(g) Canal Flood Overlay Zone; and

(h) View Corridor Overlay Zone. The use zones are generally depicted in Figure 1. The overlay zones are generally depicted in Figure 1. The following provisions identify uses which are consistent and inconsistent with each use zone.

(2) The District has identified water skiing, jet skiing, and any other boating activity that produces boat wakes as inconsistent with the Canal Flood Zone, the Limestone Creek Shallow Zone, and the Limestone Creek Zone. Although the District does not have jurisdiction to regulate such activities, the District encourages users of the C-18 canal to observe no wake speeds. The District will also cooperate with the appropriate regulatory authorities to establish and maintain no wake zones in the above specified zones.

(3) There may be locations in the Limestone Creek Shallow Zone and the Limestone Creek Zone where boat docks and access platforms are proposed for installation on private property. The District views such boat docks and access platforms as inconsistent with the initial phases of the revegetation plan and discourages, but cannot and does not prohibit, construction of such boat docks and access platforms until the revegetation plan succeeds and until no wake speeds are established.

(4) Canal Flood Zone.

(a) Description: This zone consists of the primary canal cross section designed for flood control. Said zone is defined as the area consisting of the canal, including 105' bottom width, 1 on 2 side slopes from elevation -6.0 to -3.0, 1 on 5 side slopes from elevation -3.0 to 3.0, or the channel as it currently exists. This zone shall be free of floating or submerged obstructions.

(b) Consistent uses include the following:

1. Fishing;

2. Public watercraft sightseeing and cruising;

3. Environmental study and appreciation;

4. Swimming;

5. Maintenance activities conducted by the District and the permittee; and

6. Navigation signs.

(c) Inconsistent uses include the following:

1. Mooring boats or other floating items;

2. Docks of any kind; and

3. Any activity which blocks, impedes or creates turbulence in the flow of water from flood control discharges.

(5) General Wildlife Area Zone.

(a) Description: This zone consists of lands from above elevation 3.0 to the edge of the C-18 canal right of way. The area within this zone is intended for the primary use of wildlife and therefore is designed to provide food, cover and resting places for wildlife.

(b) Consistent uses include the following:

1. Typical and normal activities of wildlife residing in or visiting the area;

2. Environmental study and appreciation;

3. Public passage from upland, off-site areas to the C-18 canal right of way, including Limestone Creek;

4. Maintenance activities conducted by the District and the permittee;

5. Paths which meet the requirements of paragraph 40E-62.651(5)(e), F.A.C.;

6. Permitted utility uses; and

7. Small group picnicking.

(c) Inconsistent uses include the following:

1. Clearing or substantial thinning of vegetation;

2. Capturing, trapping, hunting or otherwise taking, harassing or destroying wildlife, not including fishing and shellfishing activities or removing dangerous wildlife, such as poisonous snakes and rats;

3. Camping; and

4. Large group picnicking.

(d) Public passage areas shall not interfere with areas designed for food, cover, resting and passageways for wildlife. Users of the C-18 canal right of way are advised to dress properly for passage through native vegetation and are further advised that wildlife may be encountered.

(e) A general permit is in effect pursuant to this Part for paths which are designed and maintained for access by residents adjacent to the C-18 canal right of way subject to the following requirements:

1. Paths shall meet District design standards, generally following an irregular alignment in order to minimize interruption to wildlife areas, to minimize opening direct viewing corridors from the C-18 canal, and to discourage passage of the general public from the right of way onto private property;

2. Paths shall be a maximum of six feet in width;

3. Path design shall include a landscape plan, a maintenance plan and details necessary to illustrate proposed construction. Sod and regular intervals of mowing will not be considered an acceptable path;

4. Paths located within the C-18 right of way shall be open to the public; the District will consider alternative designs for paths which would allow access to the handicapped; and

5. The District recognizes that adjacent property owners may erect signs or other barriers on their own property in order to limit public access to private property from the C-18 right of way.

(6) Limestone Creek Shallow Zone.

(a) Description: This zone consists of the portions of Limestone Creek that are specified and designed to be one to two feet deep. This zone includes the portions of Limestone Creek depicted in Figure 1 and further described as follows:

1. Adjacent to River Oaks: Lots 17-21.

2. Adjacent to Jupiter Landings: 10' east of the westerly line of the boat storage area extending 56' east of the Central Blvd. bridge.

3. Adjacent to Riverwalk: 75' east of the Central Blvd. bridge extending to 500' east of the Central Blvd. bridge.

4. Adjacent to the remaining single family uses along the South of the Canal: 3000' east of the Central Blvd. bridge to 1100' west of the Loxahatchee River Road bridge.

(b) Consistent uses include the following:

1. Fishing;

2. Boating by low speed, low noise watercraft;

3. Environmental appreciation; and

4. Permitted maintenance activities.

(c) Inconsistent uses include the following:

1. Recreational or other activities that damage or remove plant or bank material.

(7) Limestone Creek Zone.

(a) Description: This zone consists of the portions of Limestone Creek that are designed to be greater than two feet in depth and are not a part of the Limestone Creek Shallow Zone.

(b) Consistent uses include the following:

1. Fishing;

2. Environmental appreciation;

3. Sightseeing by water; and

4. Limited subdivision access, subject to zone requirements.

(c) Zone requirements for the Limestone Creek Zone include the following:

1. The adjacent residents have indicated interest in access to the water by subdivision. During the period that revegetation is proceeding, the District will allow limited subdivision access consisting of one access area per subdivision for the purpose of canoe access and pedestrian access. Conditions will be specified per subdivision and will include, but not be limited to:

a. The revegetation is proceeding without delay and with success;

b. Subdivisions shall agree to design, construct and maintain access areas according to the provisions of subparagraph 40E-62.651(7)(c)2., F.A.C.

2. Limited subdivision access areas shall meet the following requirements:

a. Design of all facilities which connect with the C-18 canal right of way or Limestone Creek shall be approved by the District through the permit process established by this Part;

b. The C-18 canal right of way shall remain open to the public;

c. Water access facilities placed upon the C-18 right of way shall be open to the general public and shall contain a permanent sign so stating; the sign shall be visible and legible from the center of the adjacent water area;

d. Access areas shall be available to the District for inspection, maintenance and other activities associated with District functions;

e. Access areas shall be kept in good repair, free of litter and provide minimum interruption to the view from the C-18 canal right of way; access areas will be landscaped to maximize the use of plant materials to blend the access area into the river character; uses related to the access point, such as parking, picnic, fish cleaning and similar uses will be screened from view; the design of access areas shall include a swale or other suitable system extending the entire length of the lot, including the access ramp, intended to divert overland water flows from paved areas into vegetated areas; such systems and vegetated areas are to provide detention of runoff to encourage percolation of water through earth and vegetation; and

f. Electrical and water facilities may be included on subdivision access facilities; facilities shall be designed to meet applicable county and city safety and building requirements; lighting fixtures shall be shielded downward and/or designed so as to minimize light pollution and glare to the surrounding areas; water facilities shall be designed and maintained to function with no erosion or discharge of waste into the C-18 canal or Limestone Creek; said facilities shall not be for the purpose of providing service to live aboard boats or boat repair facilities.

(8) Fire Control Zone.

(a) Description: This zone is intended to provide a buffer safety area to help prevent the spread of wildfire from the C-18 canal right of way onto private property. This zone shall consist of a fifteen foot wide area containing low native ground covers or grasses and mature native trees.

(b) Shrubs and trees that invade this zone may be removed to maintain the low character and protection; provided however, that mature trees must not be removed without a permit from the District.

(9) Intertidal Wet Area Overlay Zone.

(a) Description: This zone includes lands that are inundated during periods of high tide, during parts or all of the year, and generally exposed during periods of low tide.

(b) Consistent uses include the following:

1. Maintenance and monitoring activities; and
2. Permitted utility uses, provided disturbed vegetation is replaced.

(c) Zone requirements for the Intertidal Wet Area Overlay Zone include the following:

1. Plants in this zone, especially mangroves, are not to be removed or pruned unless there is a current permit approved by Palm Beach County; a District permit issued pursuant to this Part, and any other permits required by law; pruning must be performed in strict accordance with the terms of all applicable permits.

(10) Canal Flood Overlay Zone.

(a) Description: This zone consists of an overlay of the Canal Flood Zone including both sides of the canal from elevation – 1.5, as measured from the edge of the water at low tide, to the top of the canal bank, as measured from the edge of the canal.

(b) Consistent uses include the following:

1. Fishing;
2. Environmental study and appreciation;
3. Temporary, not to exceed approximately four hours, stopping and anchoring of watercraft for permitted public recreational purposes;

4. Permitted maintenance activities; and

5. Swimming.

(c) Inconsistent uses include the following:

1. Recreational or other activities which damage or remove plant material or soil;

2. Camping; and

3. Mooring watercraft to mangroves.

(11) View Corridor Overlay Zone.

(a) Description: This zone is intended to provide for a view of the canal from adjacent residential buildings. The District's intent is to allow vegetation on these areas with ground cover plant materials that remain low enough to allow view over the top, and trees that, when mature, allow view under the canopy.

(b) Consistent uses include the following:

1. Uses allowed in the underlying zones; and

2. Scenic viewing of the canal from residences.

(c) Inconsistent uses include the following:

1. Uses that substantially obstruct the intended view, unless the obstruction is caused by immature vegetation; and

2. Uses that are not consistent with underlying zones.

(d) Zone regulations for the View Corridor Overlay Zone:

1. Maintenance will be limited to minimal care of plant materials;

2. Ground covers will be left at their natural height with no mowing or clearing;

3. Pathways shall conform to regulations in the General Wildlife Zone;

4. Tree pruning shall require a current District permit issued pursuant to this Part, prior written notification, and District approval each time a Permittee proposes to prune. Said notification shall include photographs of the trees(s) to be pruned;

5. Permit applications shall include photographs of the tree prior to work being accomplished.

Rulemaking Authority 373.044, 373.113 FS. Law Implemented 373.085, 373.086 FS. History—Formerly 40E-62.651, New

NAME OF PERSON ORIGINATING PROPOSED RULE:
Anita R. Bain, Environmental Resource Permitting Bureau Chief

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: South Florida Water Management District Governing Board

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 14, 2013

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: September 28, 2012

WATER MANAGEMENT DISTRICTS

South Florida Water Management District

RULE NOS.:	RULE TITLES:
40E-40.010	Review of Environmental Resource Standard Permit Applications
40E-40.011	Policy and Purpose
40E-40.021	Definitions
40E-40.031	Implementation
40E-40.041	Permit Thresholds
40E-40.042	Standard Permit for Incidental Site Activities
40E-40.051	Standard Permit Authorization
40E-40.061	Delegation of Authority Pertaining to General Environmental Resource Permits, General Surface Water Management Permits and Associated Sovereign Submerged Lands Authorizations
40E-40.091	Publications, Rules and Interagency Agreements Incorporated by Reference
40E-40.101	Content of Permit Application
40E-40.141	Request for Additional Information
40E-40.302	Conditions for Issuance of Permits
40E-40.321	Duration of Permits
40E-40.331	Modification of Permits
40E-40.341	District Revocation or Modification of Permits
40E-40.351	Transfer of Permits
40E-40.381	General Conditions
40E-40.391	Forms and Instructions
40E-40.407	Permit Application Processing Fees

PURPOSE AND EFFECT: The South Florida Water Management District (“District”) proposes to repeal these rules to be consistent with Section 373.4131, F.S. (2012), which requires the Florida Department of Environmental Protection (“DEP”) in coordination with the five water management districts (“WMDs”) to develop environmental resource permitting (“ERP”) rules, which will be applicable statewide. To implement Section 373.4131, F.S., DEP has published a Notice of Rule Development in the *Florida Administrative*

Register and has posted preliminary draft rule text on its website at <http://www.dep.state.fl.us/water/wetlands/swerp/index.htm>. DEP’s proposed rulemaking for Chapter 62-330, F.A.C., will result in these rules becoming duplicative and unnecessary.

SUMMARY: The proposed rules will be repealed as the substance will be addressed in Chapter 62-330, F.A.C.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

The District is proposing to repeal this Rule Chapter. The repeals will have no adverse impact on small business.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: The District has completed for the Governor’s Office of Fiscal Accountability and Regulatory Reform (OFARR) the form entitled “Is a SERC Required?” and prepared a summary of the proposed rule amendments, which are both available upon request. Based on the completed form entitled “Is a SERC Required?” and summary and the analysis performed by District staff in preparing and completing those documents, the proposed rule amendments are not expected to require legislative ratification pursuant to subsection 120.541(3), F.S.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 120.53(1), 120.54, 120.60, 373.044, 373.046, 373.113, 373.118, 373.149, 373.171, 373.413(1), 373.4131, 373.414, 403.812 FS.

LAW IMPLEMENTED: 120.52(16), 120.53, 120.54, 120.60, 373.016, 373.019, 373.046, 373.085, 373.103, 373.106, 373.116, 373.117, 373.118, 373.229, 373.403, 373.406(5), 373.413, 373.4131, 373.414, 373.416, 373.419, 373.426, 373.427, 373.429, Chapter 373 Part IV FS.

A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW:

DATE AND TIME: May 9, 2013, 9:00 a.m.

PLACE: South Florida Water Management District Headquarters, B-1 Auditorium, 3301 Gun Club Road, West Palm Beach, FL 33406

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the

agency at least 5 days before the workshop/meeting by contacting: South Florida Water Management District Clerk's Office, (800)432-2045, ext. 2087, or (561)682-2087. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Anita R. Bain, Environmental Resource Permitting Bureau Chief, South Florida Water Management District, 3301 Gun Club Road, West Palm Beach, FL 33406, 1(800)432-2045, ext. 6866 or (561)682-6866, abain@sfwmd.gov. For procedural questions, contact Jan Sluth, Paralegal, South Florida Water Management District, 3301 Gun Club Road, West Palm Beach, FL 33406, 1(800)432-2045, ext. 6299, or (561)682-6299, jsluth@sfwmd.gov. Information regarding this rulemaking process can be accessed at SFWMD's website <http://www.sfwmd.gov/rules>.

THE FULL TEXT OF THE PROPOSED RULE IS:

40E-40.010 Review of Environmental Resource Standard Permit Applications.

Rulemaking Authority 120.54(5), 120.60 FS. Law Implemented 120.54(5), 120.60 FS. History–New 7-2-98, Amended 12-1-11, Repealed.

This rule will become effective on July 1, 2013, or upon the date that amendments to Chapter 62-330, F.A.C., proposed by the Department of Environmental Protection to implement the statutory mandate in Section 373.4131, F.S. (2012), take effect, whichever is later.

40E-40.011 Policy and Purpose.

Rulemaking Authority 373.044, 373.113, 373.118, 373.413(1) FS. Law Implemented 373.118, 373.413(1), 373.416 FS. History–New 9-3-81, Formerly 16K-4.021(1)(d), 16K-4.022(1)(e), Amended 7-26-87, 4-20-94, 10-3-95, 12-1-11, Repealed.

This rule will become effective on July 1, 2013, or upon the date that amendments to Chapter 62-330, F.A.C., proposed by the Department of Environmental Protection to implement the statutory mandate in Section 373.4131, F.S. (2012), take effect, whichever is later.

40E-40.021 Definitions.

Rulemaking Authority 373.044, 373.113 FS. Law Implemented 373.019, 373.403, 373.413, 373.416, 373.419, 403.031(16), 704.06 FS. History–New 9-3-81, Amended 12-1-82, 7-26-87, 4-20-94, 10-3-95, Repealed.

This rule will become effective on July 1, 2013, or upon the date that amendments to Chapter 62-330, F.A.C., proposed by the Department of Environmental Protection to implement the statutory mandate in Section 373.4131, F.S. (2012), take effect, whichever is later.

40E-40.031 Implementation.

Rulemaking Authority 373.044, 373.113, 373.118(1) FS. Law Implemented 373.103(1), Part IV, Ch. 373 FS. History–New 9-3-81, Amended 12-1-82, 7-26-87, 4-20-94, 10-3-95, 12-1-11, Repealed.

This rule will become effective on July 1, 2013, or upon the date that amendments to Chapter 62-330, F.A.C., proposed by the Department of Environmental Protection to implement the statutory mandate in Section 373.4131, F.S. (2012), take effect, whichever is later.

40E-40.041 Permit Thresholds.

Rulemaking Authority 373.044, 373.113 FS. Law Implemented 373.406(5), 373.413(1), 373.416 FS. History–New 4-20-94, Amended 10-3-95, 5-28-00, 6-26-02, 12-1-11, Repealed.

This rule will become effective on July 1, 2013, or upon the date that amendments to Chapter 62-330, F.A.C., proposed by the Department of Environmental Protection to implement the statutory mandate in Section 373.4131, F.S. (2012), take effect, whichever is later.

40E-40.042 Standard Permit for Incidental Site Activities.

Rulemaking Authority 373.044, 373.113 FS. Law Implemented 120.60(2), 373.103(4), 373.118, 373.413, 373.416 FS. History–New 9-3-81, Formerly 16K-4.021(1), 16K-4.022(1), Amended 12-1-82, 7-26-87, 4-20-94, 10-3-95, 5-28-00, 12-15-11, Repealed.

This rule will become effective on July 1, 2013, or upon the date that amendments to Chapter 62-330, F.A.C., proposed by the Department of Environmental Protection to implement the statutory mandate in Section 373.4131, F.S. (2012), take effect, whichever is later.

40E-40.051 Standard Permit Authorization.

Rulemaking Authority 373.044, 373.113 FS. Law Implemented 373.103(2), (6), 373.427 FS. History–New 10-3-95, Amended 4-1-96, 5-28-00, 7-19-07, 12-1-11, Repealed.

This rule will become effective on July 1, 2013, or upon the date that amendments to Chapter 62-330, F.A.C., proposed by the Department of Environmental Protection to implement the statutory mandate in Section 373.4131, F.S. (2012), take effect, whichever is later.

40E-40.061 Delegation of Authority Pertaining to General Environmental Resource Permits, General Surface Water Management Permits and Associated Sovereign Submerged Lands Authorizations.

Rulemaking Authority 120.53(1), 373.044, 373.113, 373.118 FS. Law Implemented 120.53, 373.016, 373.118 FS. History–New 4-1-96, Formerly 40E-1.6015, Amended 5-28-00, 7-19-07, Repealed.

This rule will become effective on July 1, 2013, or upon the date that amendments to Chapter 62-330, F.A.C., proposed by the Department of Environmental Protection to implement the statutory mandate in Section 373.4131, F.S. (2012), take effect, whichever is later.

40E-40.091 Publications, Rules and Interagency Agreements Incorporated by Reference.

Rulemaking Authority 120.54(8), 373.044, 373.046, 373.113, 373.171, 373.414, 403.812 FS. Law Implemented 120.54(8), 373.046, 373.403, 373.413, 373.414, 373.416, 373.429 FS. History—New 11-15-92, Amended 1-23-94, 4-20-94, 10-3-95, Repealed.

This rule will become effective on July 1, 2013, or upon the date that amendments to Chapter 62-330, F.A.C., proposed by the Department of Environmental Protection to implement the statutory mandate in Section 373.4131, F.S. (2012), take effect, whichever is later.

40E-40.101 Content of Permit Application.

Rulemaking Authority 373.044, 373.113 FS. Law Implemented 373.117, 373.413, 373.416, 373.426 FS. History—New 10-3-95, Repealed.

This rule will become effective on July 1, 2013, or upon the date that amendments to Chapter 62-330, F.A.C., proposed by the Department of Environmental Protection to implement the statutory mandate in Section 373.4131, F.S. (2012), take effect, whichever is later.

40E-40.141 Request for Additional Information.

Rulemaking Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.416, 373.419 FS. History—New 9-3-81, Amended 4-20-94, 10-3-95, 4-14-03, 12-1-11, Repealed.

This rule will become effective on July 1, 2013, or upon the date that amendments to Chapter 62-330, F.A.C., proposed by the Department of Environmental Protection to implement the statutory mandate in Section 373.4131, F.S. (2012), take effect, whichever is later.

40E-40.302 Conditions for Issuance of Permits.

Rulemaking Authority 373.044, 373.113, 373.149, 373.171 FS. Law Implemented 373.046, 373.413, 373.416 FS. History—New 9-3-81, Formerly 16K-4.021(1)(a), (2), 16K-4.022(1)(a), (b), Amended 12-1-82, 7-26-87, 11-15-92, 4-20-94, 10-3-95, 12-1-11, Repealed.

This rule will become effective on July 1, 2013, or upon the date that amendments to Chapter 62-330, F.A.C., proposed by the Department of Environmental Protection to implement the statutory mandate in Section 373.4131, F.S. (2012), take effect, whichever is later.

40E-40.321 Duration of Permits.

Rulemaking Authority 373.044, 373.113 FS. Law Implemented 373.413, 373.416, 373.419, 373.426 FS. History—New 9-3-81, Amended 12-1-82, 7-26-87, 4-20-94, 10-3-95, 12-1-11, Repealed.

This rule will become effective on July 1, 2013, or upon the date that amendments to Chapter 62-330, F.A.C., proposed by the Department of Environmental Protection to implement the statutory mandate in Section 373.4131, F.S. (2012), take effect, whichever is later.

40E-40.331 Modification of Permits.

Rulemaking Authority 373.044, 373.113 FS. Law Implemented 373.413, 373.416(1) FS. History—New 12-1-82, Amended 4-20-94, 10-3-95, 12-1-11, Repealed.

This rule will become effective on July 1, 2013, or upon the date that amendments to Chapter 62-330, F.A.C., proposed by the Department of Environmental Protection to implement the statutory mandate in Section 373.4131, F.S. (2012), take effect, whichever is later.

40E-40.341 District Revocation or Modification of Permits.

Rulemaking Authority 373.044, 373.113 FS. Law Implemented 120.60(6), 373.429 FS. History—New 9-3-81, Formerly 16K-4.021(1)(e), 16K-4.022(1)(f), Amended 12-1-82, 10-3-95, 7-2-98, 12-1-11, Repealed.

This rule will become effective on July 1, 2013, or upon the date that amendments to Chapter 62-330, F.A.C., proposed by the Department of Environmental Protection to implement the statutory mandate in Section 373.4131, F.S. (2012), take effect, whichever is later.

40E-40.351 Transfer of Permits.

Rulemaking Authority 373.044, 373.113 FS. Law Implemented 373.413, 373.416(2) FS. History—New 12-1-82, Repealed.

This rule will become effective on July 1, 2013, or upon the date that amendments to Chapter 62-330, F.A.C., proposed by the Department of Environmental Protection to implement the statutory mandate in Section 373.4131, F.S. (2012), take effect, whichever is later.

40E-40.381 General Conditions.

Rulemaking Authority 373.044, 373.113, 373.118, 373.171 FS. Law Implemented 373.117, 373.118, 373.413, 373.416, 373.419 FS. History—New 9-3-81, Formerly 16K-4.021(1)(b), 16K-4.022(1)(c), Amended 7-26-87, 4-20-94, 10-3-95, 4-14-03, 12-1-11, Repealed.

This rule will become effective on July 1, 2013, or upon the date that amendments to Chapter 62-330, F.A.C., proposed by the Department of Environmental Protection to implement the statutory mandate in Section 373.4131, F.S. (2012), take effect, whichever is later.

40E-40.391 Forms and Instructions.

Rulemaking Authority 120.53(1), 373.044, 373.113, 373.118 FS. Law Implemented 120.52(16), 120.53(1), 373.085, 373.116, 373.118, 373.103, 373.106, 373.229, 373.413 FS. History—New 10-3-95, Amended 12-1-11, Repealed.

This rule will become effective on July 1, 2013, or upon the date that amendments to Chapter 62-330, F.A.C., proposed by the Department of Environmental Protection to implement the statutory mandate in Section 373.4131, F.S. (2012), take effect, whichever is later.

40E-40.407 Permit Application Processing Fees.

Rulemaking Authority 373.044, 373.113 FS. Law Implemented 373.109 FS. History—New 10-3-95, Repealed.

This rule will become effective on July 1, 2013, or upon the date that amendments to Chapter 62-330, F.A.C., proposed by the Department of Environmental Protection to implement the statutory mandate in Section 373.4131, F.S. (2012), take effect, whichever is later.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Anita R. Bain, Environmental Resource Permitting Bureau Chief

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: South Florida Water Management District Governing Board

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 14, 2013

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: September 28, 2012

WATER MANAGEMENT DISTRICTS

South Florida Water Management District

RULE NOS.:	RULE TITLES:
40E-41.011	Policy and Purpose
40E-41.043	Application of Part I
40E-41.053	Exemptions
40E-41.063	Conditions for Issuance of Permits in the Western Canal 9 Basin
40E-41.143	Application of Part II
40E-41.160	Content of Application
40E-41.243	Application of Part III
40E-41.260	Content of Application
40E-41.263	Conditions for Issuance of Permits in the C-51 Basin
40E-41.333	Implementation
40E-41.343	Application of Part IV
40E-41.363	Conditions for Issuance of Permits in the Water Preserve Area, Water Preserve Area Basin, or Adjacent to the Protective Levees

PURPOSE AND EFFECT: The South Florida Water Management District (“District”) proposes to amend its rules to be consistent with Section 373.4131, F.S. (2012), which requires the Florida Department of Environmental Protection (“DEP”), in coordination with the five water management districts (“WMDs”), to develop environmental resource permitting (“ERP”) rules, which will be applicable statewide. This section provides that the rules shall account for special basin consideration of individual WMDs. These rules rely primarily upon existing rules of the DEP and WMDs, but were revised where necessary to achieve a more consistent, effective and streamlined approach in the state’s ERP program. To implement Section 373.4131, F.S., DEP has published a Notice of Rule Development in the *Florida Administrative Register* and has posted preliminary draft rule text on its website at <http://www.dep.state.fl.us/water/wetlands/swerp/index.htm>.

DEP’s proposed rulemaking for Chapter 62-330, F.A.C., will necessitate changes to the District’s Chapter 40E-41, F.A.C.

SUMMARY: The proposed rule amendments insert cross references to Chapter 62-330, F.A.C. and the “Environmental Resource Permit Applicant’s Handbook, Volume II For Use Within the Geographic Limits of the South Florida Water

Management District,” deletes cross references to Title 40E rules that are being repealed, and deletes provisions on ratios made obsolete by the Uniform Mitigation Assessment rules in Chapter 62-345, F.A.C., in accordance with Section 373.414(18), F.S.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

The proposed rules will have no adverse impact on small business as the amendments merely eliminate obsolete provisions and update cross references.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: The District has completed for the Governor’s Office of Fiscal Accountability and Regulatory Reform (OFARR) the form entitled “Is a SERC Required?” and prepared a summary of the proposed rule amendments, which are both available upon request. Based on the completed form entitled “Is a SERC Required?” and summary and the analysis performed by District staff in preparing and completing those documents, the proposed rule amendments are not expected to require legislative ratification pursuant to subsection 120.541(3), F.S.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 373.044, 373.113, 373.4131 FS.

LAW IMPLEMENTED: 373.085, 373.086, 373.413, 373.4131, 373.416, 373.426 FS.

A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW:

DATE AND TIME: May 9, 2013, 9:00 a.m.

PLACE: South Florida Water Management District Headquarters, B-1 Auditorium, 3301 Gun Club Road, West Palm Beach, FL 33406

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: South Florida Water Management District Clerk’s Office, 1(800)432-2045, ext. 2087, or (561)682-2087. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Anita R. Bain, Environmental Resource Permitting Bureau Chief, South Florida Water Management District, 3301 Gun Club Road, West Palm Beach, FL 33406, 1(800)432-2045, ext. 6866 or (561)682-6866, abain@sfwmd.gov. For procedural questions, contact Jan Sluth, Paralegal, South Florida Water Management District, 3301 Gun Club Road, West Palm Beach, FL 33406, 1(800)432-2045, ext. 6299, or (561)682-6299, jsluth@sfwmd.gov. Information regarding this rulemaking process can be accessed at SFWMD's website at <http://www.sfwmd.gov/rules>.

THE FULL TEXT OF THE PROPOSED RULE IS:

40E-41.011 Policy and Purpose.

The rules in this part establish supplemental Environmental Resource Permit criteria for specified basins which insure that development within named basins incorporates the appropriate environmental, water quantity and water quality control measures necessary to protect the integrity of the public investments in the basin and minimize adverse impacts to the water resources of the District. Criteria delineated in this chapter are in addition to criteria specified in Chapters ~~40E-4 or 62-330, 40E-40 or 40E-400~~, F.A.C. The criteria, exemptions and additional requirements specified in this part are not intended to supersede or rescind the terms and conditions of any valid Environmental Resource Conceptual Approval, Construction or Operation Permit or Surface Water Management Conceptual Approval, Construction or Operation Permit, or certification order issued pursuant to Sections 403.501-.518 and 403.52-.5365, F.S., prior to the effective date of this part. In addition, the rules establish additional criteria for the named basins which insure that the use of the District's works or land is consistent with the policies of the District.

Rulemaking Authority 373.044, 373.113, 373.4131 FS. Law Implemented 373.413, 373.4131, 373.416 FS. History--New 9-3-81, Formerly 16K-34.01, Amended 4-11-85, 4-20-94, 10-21-01,_____.

This rule will become effective on July 1, 2013, or upon the date that amendments to Chapter 62-330, F.A.C., proposed by the Department of Environmental Protection to implement the statutory mandate in Section 373.4131, F.S. (2012), take effect, whichever is later.

40E-41.043 Application of Part I.

All projects located within the Western Canal 9 Basin requiring permits pursuant to Chapter 62-330 Rule 40E-4.041, F.A.C., shall be constructed, altered, operated, maintained and abandoned in accordance with the criteria specified in Rules 62-330.301 ~~40E-4.301~~, 62-330.302 ~~40E-40.302~~ and 40E-41.063, F.A.C., unless specifically exempted in Rule 62-330.051 ~~40E-4.051~~ or ~~40E-41.053~~, F.A.C. The most restrictive criteria will be applicable unless the applicant can demonstrate to the District's satisfaction through accepted

methodology that the purpose and intent of this part will be fulfilled using alternate criteria.

Rulemaking Authority 373.044, 373.113, 373.4131 FS. Law Implemented 373.413, 373.4131, 373.416, 373.426 FS. History--New 9-3-81, Formerly 16K-34.04, Amended 4-20-94,_____.

This rule will become effective on July 1, 2013, or upon the date that amendments to Chapter 62-330, F.A.C., proposed by the Department of Environmental Protection to implement the statutory mandate in Section 373.4131, F.S. (2012), take effect, whichever is later.

40E-41.053 Exemptions.

Projects which have received final approval of construction plans, or equivalent approval, from local government prior to the effective date of this part are hereby exempt from the fill encroachment criteria specified in subsection 40E-41.063(4), F.A.C. All other criteria specified in Rules 62-330.301 ~~40E-4.301~~, 62-330.302 ~~40E-40.302~~ and 40E-41.063, F.A.C., must be strictly met.

Rulemaking Authority 373.044, 373.113, 373.4131 FS. Law Implemented 373.413, 373.4131, 373.416 FS. History--New 9-3-81, Formerly 16K-34.05, Amended 4-20-94,_____.

This rule will become effective on July 1, 2013, or upon the date that amendments to Chapter 62-330, F.A.C., proposed by the Department of Environmental Protection to implement the statutory mandate in Section 373.4131, F.S. (2012), take effect, whichever is later.

40E-41.063 Conditions for Issuance of Permits in the Western Canal 9 Basin.

(1) No change.

(2) For systems designed to be pumped from fully diked areas, discharge shall be limited to three-fourths of an inch per twenty-four hours, or the criteria in Rules 62-330.301 ~~40E-4.301~~ and 62-330.302 ~~40E-40.302~~, F.A.C., whichever is more restrictive. In addition, no pumping shall be permitted when Canal 9 stages at pump tailwater exceed the 25-year peak elevation of 6.8 feet mean sea level.

(3) through (4) No change.

Rulemaking Authority 373.044, 373.113, 373.4131 FS. Law Implemented 373.413, 373.4131, 373.416 FS. History--New 9-3-81, Formerly 16K-34.06, Amended 4-20-94,_____.

This rule will become effective on July 1, 2013, or upon the date that amendments to Chapter 62-330, F.A.C., proposed by the Department of Environmental Protection to implement the statutory mandate in Section 373.4131, F.S. (2012), take effect, whichever is later.

40E-41.143 Application of Part II.

(1) All projects located within the Kissimmee River Basin requiring permits pursuant to Chapter 62-330 Rule 40E-4.041, F.A.C., shall be constructed, altered, operated, maintained and abandoned in accordance with the criteria specified in Rules 62-330.301 ~~40E-4.301~~, 62-330.302 ~~40E-40.302~~ and 40E-41.163, F.A.C., unless specifically exempted by Section 373.406, F.S..

(2) The criteria set forth in Rule 40E-41.163, F.A.C., shall be considered more restrictive than that set forth in Rule ~~62-330.301~~ ~~40E-4.301~~ and ~~62-330.302~~ ~~40E-40.302~~, F.A.C. The most restrictive criteria will be applicable unless the applicant can demonstrate through accepted scientific and technical methodology that the purpose and intent of this part will be fulfilled by the use of alternate criteria.

(3) through (4) No change.

Rulemaking Authority 373.044, 373.113, 373.4131 FS. Law Implemented 373.085, 373.086, 373.413, 373.4131, 373.416 FS. History–New 5-1-85, Amended 4-20-94,_____.

This rule will become effective on July 1, 2013, or upon the date that amendments to Chapter 62-330, F.A.C., proposed by the Department of Environmental Protection to implement the statutory mandate in Section 373.4131, F.S. (2012), take effect, whichever is later.

40E-41.160 Content of Application.

All projects located within the Kissimmee River Basin requiring permits pursuant to ~~Chapter 62-330 Rule 40E-4.041~~, F.A.C., shall submit the information specified by Rule ~~62-330.060~~ ~~40E-4.101~~ or ~~40E-40.112~~, F.A.C., as appropriate, and the following information:

(1) through (2) No change.

Rulemaking Authority 373.044, 373.113, 373.4131 FS. Law Implemented 373.413, 373.4131, 373.416 FS. History–New 5-1-85, Amended 4-20-94,_____.

This rule will become effective on July 1, 2013, or upon the date that amendments to Chapter 62-330, F.A.C., proposed by the Department of Environmental Protection to implement the statutory mandate in Section 373.4131, F.S. (2012), take effect, whichever is later.

40E-41.243 Application of Part III.

(1) All projects located within the C-51 Basin which propose to discharge directly or indirectly into C-51 Canal or which are connected directly or indirectly in the C-51 Basin and which require permits pursuant to Rule ~~62-330.020~~ ~~40E-4.041~~, F.A.C., or this part shall be constructed, altered, operated, maintained and abandoned in accordance with the criteria specified in Rules ~~62-330.301~~ ~~40E-4.301~~, ~~62-330.302~~ ~~40E-4.302~~, F.A.C., and 40E-41.263, F.A.C., unless specifically exempted by Rule 40E-4.051, F.A.C.

(2) through (4) No change.

Rulemaking Authority 373.044, 373.113, 373.4131 FS. Law Implemented 373.085, 373.086, 373.413, 373.4131, 373.416 FS. History–New 5-15-87, Amended 4-20-94, 12-1-11,_____.

This rule will become effective on July 1, 2013, or upon the date that amendments to Chapter 62-330, F.A.C., proposed by the Department of Environmental Protection to implement the statutory mandate in Section 373.4131, F.S. (2012), take effect, whichever is later.

40E-41.260 Content of Application.

(1) No change.

(2) In addition all projects in the C-51 Basin which require permits pursuant to ~~Chapter 62-330 Rule 40E-4.041~~, F.A.C., shall submit the information specified by Rule ~~62-330.060~~ ~~40E-4.101~~ or ~~40E-40.112~~, F.A.C., and all projects located in the C-51 Basin which require a permit pursuant to Rule 40E-6.041, F.A.C., shall submit the information required under Rule 40E-6.101, F.A.C.

Rulemaking Authority 373.044, 373.113, 373.4131 FS. Law Implemented 373.085, 373.413, 373.4131, 373.416 FS. History–New 5-15-87, Amended 4-20-94, 12-1-11,_____.

This rule will become effective on July 1, 2013, or upon the date that amendments to Chapter 62-330, F.A.C., proposed by the Department of Environmental Protection to implement the statutory mandate in Section 373.4131, F.S. (2012), take effect, whichever is later.

40E-41.263 Conditions for Issuance of Permits in the C-51 Basin.

The following criteria shall apply:

(1)(a) No change.

(b) This criteria is not intended to limit inflows to the C-51 Canal to the rates specified in paragraph (a) above during non-flood conditions. Discharge capacity up to 27 cfs during non-flood conditions shall be considered on a case-by-case basis pursuant to the criteria in the ~~“Basis of Review for Environmental Resource Permit Applicant’s Handbook Volume II For Use Within the Geographic Limits of Applications within the South Florida Water–Management District,”~~ incorporated by reference in paragraph 40E-4.091(1)(a), F.A.C., and ~~62-330.010(4)(b)5.~~ ~~Rule 40E-4.301~~, F.A.C.

(2) through (3) No change.

(4) All criteria in the ~~“Basis of Review for Environmental Resource Permit Applicant’s Handbook Volume II For Use Within the Geographic Limits of Applications within the South Florida Water Management District,”~~ which is incorporated by reference in paragraph 40E-4.091(1)(a), F.A.C., and ~~62-330.010(4)(b)5.~~ F.A.C.

(5) No change.

Rulemaking Authority 373.044, 373.113, 373.4131 FS. Law Implemented 373.085, 373.413, 373.4131, 373.416 FS. History–New 5-15-87, Amended 12-1-11,_____.

This rule will become effective on July 1, 2013, or upon the date that amendments to Chapter 62-330, F.A.C., proposed by the Department of Environmental Protection to implement the statutory mandate in Section 373.4131, F.S. (2012), take effect, whichever is later.

40E-41.333 Implementation.

(1) through (2) No change.

(3) Permit applications submitted pursuant to a valid conceptual approval shall be evaluated in accordance with Rules ~~62-330.055~~ or ~~62-330.056~~ ~~40E-4.305~~, F.A.C., (Conceptual Approvals).

Rulemaking Authority 373.044, 373.113, 373.4131 FS. Law Implemented 373.413, 373.4131, 373.416 FS. History–New 10-21-01, Amended _____.

This rule will become effective on July 1, 2013, or upon the date that amendments to Chapter 62-330, F.A.C., proposed by the Department of Environmental Protection to implement the statutory mandate in Section 373.4131, F.S. (2012), take effect, whichever is later.

40E-41.343 Application of Part IV.

All projects located within the WPA, WPAB, or adjacent to the Protective Levees which require permits pursuant to Chapter 62-330 Rule 40E-4.041, F.A.C., shall be constructed, altered, operated, maintained and abandoned in accordance with the criteria specified in Rules 62-330.301 40E-4.301 and 62-330.302 40E-4.302, or Rule 40E-40.302, F.A.C., as applicable, (Environmental Resource Permits Conditions for Issuance) and Rule 40E-41.363, F.A.C., (Conditions for Issuance of Environmental Resource Permits and Surface Water Management Permits in the Water Preserve Area, Water Preserve Area Basin, or Adjacent to the Protective Levees).

Rulemaking Authority 373.044, 373.113, 373.4131 FS. Law Implemented 373.413, 373.4131, 373.416 FS. History–New 10-21-01, Amended _____.

This rule will become effective on July 1, 2013, or upon the date that amendments to Chapter 62-330, F.A.C., proposed by the Department of Environmental Protection to implement the statutory mandate in Section 373.4131, F.S. (2012), take effect, whichever is later.

40E-41.363 Conditions for Issuance of Permits in the Water Preserve Area, Water Preserve Area Basin, or Adjacent to the Protective Levees.

(1) through (4) No change.

(5) In addition to the water quality treatment volumes required in section 4.2.1 5.2.1 of the “Environmental Resource Permit Applicant’s Handbook Volume II For Use Within the Geographic Limits of the South Florida Water Management District.” incorporated by reference in paragraph 40E-4.091(1)(a), F.A.C. ~~Basis of Review~~, projects within the WPA or WPAB shall provide an additional fifty (50) percent retention/detention water quality treatment.

(6) No change.

~~(7) Reduced mitigation ratios set forth in section 4.3.2.4 of the “Basis of Review for Environmental Resource Permit Applications within the South Florida Water Management District,” incorporated by reference in paragraph 40E 4.091(1)(a), F.A.C, shall not apply in the WPA.~~

~~(8) In order to qualify for the reduced mitigation ratios set forth in section 4.3.2.4 of the “Basis of Review for Environmental Resource Permit Applications within the South Florida Water Management District,” incorporated by reference in paragraph 40E 4.091(1)(a), F.A.C., projects located within the WPAB shall:~~

~~(a) Provide a management plan for the control of exotic and nuisance species;~~

~~(b) Maximize the spatial extent and connectivity of wetlands, wetland mitigation areas and open space; and~~

~~(c) Incorporate a minimum of 50% native trees, shrubs and ground cover in the project landscape plan.~~

~~(9) The exotic and nuisance species management plan referenced in (8)(a) shall include as a minimum the following. All invasive exotic plants defined by the Florida Exotic Pest Plant Council (EPPC) as Category I plants will be removed or killed in place during the initial wetland construction, restoration and enhancement phase of the mitigation project or onsite natural area clearing. Subsequent regrowth of the invasive exotic and undesirable vegetation will be maintained at or below five (5) percent of coverage of the wetland mitigation area. During the construction, restoration and enhancement phases of the mitigation project and as part of the perpetual maintenance of the mitigation areas, every effort will be taken to attain zero percent coverage of exotic/nuisance plant species immediately following maintenance activities.~~

~~(7)(40)~~ Mitigation for proposed impacts incurred in the WPA or WPAB must be provided within the WPAB, or at a mitigation bank or Regional Offsite Mitigation Area with an approved mitigation service area that includes the impact site, provided all other applicable criteria are met.

Rulemaking Authority 373.044, 373.113, 373.4131 FS. Law Implemented 373.413, 373.4131, 373.416 FS. History–New 10-21-01, Amended 12-1-11, _____.

This rule will become effective on July 1, 2013, or upon the date that amendments to Chapter 62-330, F.A.C., proposed by the Department of Environmental Protection to implement the statutory mandate in Section 373.4131, F.S. (2012), take effect, whichever is later.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Anita R. Bain, Environmental Resource Permitting Bureau Chief

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: South Florida Water Management District Governing Board

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 14, 2013

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: September 28, 2012

WATER MANAGEMENT DISTRICTS

South Florida Water Management District

RULE NOS.:	RULE TITLES:
40E-62.011	Policy and Purpose
40E-62.020	Scope of Part I
40E-62.021	Policy and Purpose
40E-62.023	C-18 Canal Right of Way Boundary
40E-62.041	Permits Required

40E-62.042	General Permit for Occupancy or Use of the C-18 Right of Way
40E-62.043	Application of Part
40E-62.051	Exemptions
40E-62.101	Content of Application
40E-62.301	Conditions for Issuance of Permits
40E-62.321	Duration of Permits
40E-62.331	Modification of Permits
40E-62.341	Revocation of Permits
40E-62.351	Transfer of Permits
40E-62.381	Limiting Conditions
40E-62.651	C-18 Use Zones

PURPOSE AND EFFECT: To repeal Chapter 40E-62 and merge relevant portions of Chapter 40E-62, F.A.C., into Chapter 40E-6, F.A.C. to address use of the District’s C-18 Canal Right of Way in an effort to streamline and clarify the permitting process and correct inaccuracies and have all rules regarding the Right of Way Permitting Program contained within Chapter 40E-6, F.A.C.

SUMMARY: The Right of Way Permitting Program provides an evaluation process for requests to connect with and/or make use of Works and Land of the District in accordance with Sections 373.085 and 373.086, F.S. Chapter 40E-62, F.A.C., specifically addresses use of the District’s C-18 Right of Way, which will now be included in Chapter 40E-6, F.A.C.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has been prepared by the agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: The agency has determined that the repeal of these rules will not have an adverse impact on small business or likely increase regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of these rules. A SERC has been prepared by the agency. Portions of this chapter are being repealed and the remainder are being merged into Chapter 40E-6, F.A.C. Any relevant permitting fees have not been increased and regulations have been reduced. The rule revisions streamline and clarify the permitting process. Since regulatory costs will be reduced, legislative ratification pursuant to Section 120.541(3), F.S., is not required.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 373.044, 373.113 FS.

LAW IMPLEMENTED: 373.085, 373.086, 373.103, 373.129 FS.

A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW:

DATE AND TIME: May 9, 2013, 9:00 a.m.

PLACE: South Florida Water Management District Headquarters Auditorium, 3301 Gun Club Road, West Palm Beach, FL 33406

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: South Florida Water Management District Clerk at 1(800)432-2945, ext. 2087 or (561)682-2087. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice). If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Jorge Patino, Section Administrator – Right Of Way, South Florida Water Management District, Post Office Box 24680, West Palm Beach, FL 33416-4680, telephone 1(800)432-2045, ext. 6175 or (561)682-6175 or by email to jpatino@sfwmd.gov. For procedural questions, please contact Juli Russell, Paralegal, South Florida Water Management District, Post Office Box 24680, West Palm Beach, FL 33416-4680, telephone 1(800)432-2045, extension 6268 or (561)682-6268 or by email to jrussel@sfwmd.gov

THE FULL TEXT OF THE PROPOSED RULE IS:

40E-62.011 Policy and Purpose.

~~The rules in this chapter establish additional conditions and criteria to ensure that uses of District lands and works are consistent with District management policies which have been developed on a site-specific basis for designated lands and works of the District. The conditions and criteria delineated in this chapter are in addition to those specified in Chapter 40E-6, F.A.C.~~

Rulemaking Specific Authority 373.044, 373.113 FS. Law Implemented 373.085, 373.086 FS. History–New 1-23-90, Repealed_____.

40E-62.020 Scope of Part I.

~~The rules in this Part shall apply to the occupancy and use of District lands and works located on the C-18 canal right of way downstream of the District’s S-46 structure.~~

Rulemaking Specific Authority 373.044, 373.113 FS. Law Implemented 373.085, 373.086 FS. History–New 1-23-90, Repealed_____.

40E-62.021 Policy and Purpose.

(1) In addition to the policies and purposes enumerated in Rule 40E-6.011, F.A.C., the rules in Part I implement a policy of revegetation for the C-18 canal right of way through the use of a small scale land use plan. The revegetation plan is intended to restore the natural river values of the northwest fork of the Loxahatchee River and Limestone Creek for the benefit of all canal right of way users. The purposes of the revegetation plan include maintenance of flood control protection, increasing diversity and desirability of wildlife habitat, providing filtering and water quality benefits, and considering the goals of adjacent landowners.

(2) The rules in Part I identify those uses of the C-18 right of way which are consistent and inconsistent with the revegetation plan. Part I sets forth the requirements for qualifying for a right of way occupancy permit for the C-18 canal right of way and the conditions under which it may be exercised.

Rulemaking Specific Authority 373.044, 373.113 FS. Law Implemented 373.085, 373.086 FS. History—New 1-23-90, Repealed _____.

40E-62.023 C-18 Canal Right of Way Boundary.

The boundary of the C-18 canal right of way which is the subject of this rule lies east of District Structure S 46 to the easterly limit of the Canal right of way. The boundary is generally depicted on the map in Figure 62-1. The map is for illustrative purposes only and should not be relied upon for conveyances of title to real property. The C-18 boundary which is the subject of this rule is more specifically described to include the area within the boundaries in Palm Beach County, Florida, as follows:

A parcel of land situate in Section 3, Township 41 South, Range 42 East, and Sections 34 and 35, Township 40 South, Range 42 East, Palm Beach County, Florida, more particularly described as follows:

Commence at the Southwest corner of the Northwest quarter (NW1/4) of said Section 3; thence, South 89° 24' 55" East, along the South line of said Northwest quarter (NW1/4), a distance of 25.00 feet to the POINT OF BEGINNING; thence, North 00° 36' 20" East, a distance of 291.64 feet; thence, North 32° 06' 07" East, a distance of 101.20 feet to the beginning of a curve from which the radius point bears South 57° 53' 53" East, a distance of 1893.47 feet; thence, Northeasterly, along the arc of said curve, a distance of 1372.64 feet through a central angle of 41° 32' 08"; thence, North 73° 38' 15" East, a distance of 451.14 feet; thence, South 89° 20' 07" East, along the South line of the North half (N1/2) of the Northwest quarter (NW1/4) of said Section 3, a distance of 409.75 feet; thence, North 01° 36' 14" East, a distance of 81.38 feet; thence, North 61° 32' 34" East, a distance of 1621.45 feet to the beginning of a curve from which the radius point bears North 28° 27' 26" West, a distance of 440.50 feet; thence, Northeasterly along the arc of

said curve, a distance of 318.53 feet through a central angle of 41° 25' 50"; thence, North 20° 06' 44" East, a distance of 58.36 feet to the beginning of a curve from which the radius point bears South 69° 53' 16" East, a distance of 1425.00 feet; thence, Northeasterly, along the arc of said curve, a distance of 1517.13 feet, through a central angle of 61° 00' 00"; thence, North 81° 06' 44" East, a distance of 567.41 feet to the East line of said Section 34; thence, South 00° 01' 39" East, along said East line of Section 34, a distance of 25.30 feet; thence, North 84° 06' 33" East, a distance of 1355.34 feet to a point on the East right of way line of Loxahatchee River Road; thence, North 85° 44' 25" East, a distance of 991.00 feet; thence, South 06° 53' 27" East, a distance of 503.49 feet; thence, South 83° 08' 23" West, a distance of 1086.65 feet to a point on the center line of Loxahatchee River Road; thence, South 84° 06' 33" West, a distance of 1324.72 feet to the East line of said Section 34; thence, South 00° 01' 39" East, along said East line of Section 34, a distance of 29.05 feet; thence, South 81° 06' 44" West, a distance of 473.87 feet to the beginning of a curve from which the radius point bears South 08° 53' 16" East, a distance of 825.00 feet; thence, Southwesterly along the arc of said curve, a distance of 878.34 feet through a central angle of 61° 00' 00"; thence, South 20° 06' 44" West, a distance of 58.36 feet to the beginning of a curve from which the radius point bears North 69° 53' 16" West, a distance of 1040.50 feet; thence, Southwesterly, along the arc of said curve, a distance of 752.39 feet through a central angle of 41° 25' 50"; thence, South 61° 32' 34" West, a distance of 1201.30 feet to a point on the East line of said Northwest quarter (NW1/4) of Section 3 and the West right of way line of Central Boulevard Extension; thence, South 01° 54' 07" West a distance of 57.94 feet along said West right of way line and said East line of the Northwest quarter (NW1/4) of said Section 3; thence, South 61° 32' 34" West, a distance of 495.21 feet; thence, South 73° 38' 15" West, a distance of 15.11 feet; thence, North 88° 15' 37" West, a distance of 307.41 feet; thence, South 01° 44' 23" West, a distance of 50.00 feet; thence, North 88° 15' 37" West, a distance of 300.00 feet; thence, South 01° 44' 23" West, a distance of 95.95 feet; thence, South 73° 38' 15" West, a distance of 264.78 feet to the beginning of a curve from which the radius point bears South 16° 21' 45" East, a distance of 1243.47 feet; thence, Southwesterly, along the arc of said curve, a distance of 345.17 feet through a central angle of 15° 54' 16"; thence, South 01° 37' 49" East, non-tangent to the preceding curve, a distance of 58.69 feet to a point on a non-tangent curve from which the radius point bears South 33° 43' 14" East, a distance of 1193.47 feet; thence, Southwesterly, along the arc of said curve, a distance of 503.62 feet through a central angle of 24° 10' 39"; thence, South 32° 06' 07" West, a distance of 14.05 feet to the South line of the Northwest quarter (NW1/4) of said Section 3; thence, North 89° 24' 55" West, a distance of 642.39 feet along said South line of the Northwest quarter (NW1/4) of said Section 3 to the POINT OF

~~BEGINNING. The above described parcel of land contains 117.84 acres, more or less. The bearings recited herein are based on the Florida State Plane Coordinate System, East Zone.~~

Together with:

~~That part of the following described lands lying South of the South right of way for Canal 18; Commencing at the Northeast corner of the West half of the Southwest quarter of Section 35, Township 40 South, Range 42 East, and proceed Southerly along the Eastern boundary of said West half of the Southwest quarter of said Section a distance of 1006 feet to a point on said line, said point beginning the POINT OF BEGINNING; thence, proceed at right angles to said Eastern boundary line in a Westerly direction a distance of 817 feet to a point; thence at right angles in a Southerly direction and parallel to said Eastern boundary line a distance of 234 feet to a point; thence at right angles to said Eastern boundary line in a Westerly direction a distance of 492 feet to a point on the Western boundary line of said West half of the Southwest quarter of said Section; thence in a Southerly direction along said West line of Section 35, a distance of 972.00 feet more or less to a point on said line where the center line of Limestone Creek intersects said line; thence following the meandering center line of said Limestone Creek in an Easterly direction to a point on the Eastern boundary line of said West half of the Southwest quarter of Section 35 where the center line of said Creek intersects; thence in a Northerly direction along said Eastern boundary of said West half of the Southwest quarter of Section 35 to the POINT OF BEGINNING; LESS the right of way of the C-18 Canal, as described in Official Record Book 152, page 569, Public Records of Palm Beach County, Florida, and LESS the right of way of the Loxahatchee River Road. Area = 2.62 acres ±~~

~~Rulemaking Specific Authority 373.044, 373.113 FS. Law Implemented 373.085, 373.086 FS. History-New 1-23-90, Repealed _____.~~

40E-62.041 Permits Required.

~~(1) In addition to the requirements of Section 40E-6.041(1), F.A.C., an occupancy permit must be obtained prior to constructing, planting, maintaining, pruning, mooring boats, and placing other items on, across, under, or upon District lands and works along the C-18 canal right of way.~~

~~(2) The provisions of Rule 40E-6.041, F.A.C., are incorporated by reference into this Part.~~

~~Rulemaking Specific Authority 373.044, 373.113 FS. Law Implemented 373.085, 373.086 FS. History-New 1-23-90, Repealed _____.~~

40E-62.042 General Permit for Occupancy or Use of the C-18 Right of Way.

~~(1) The rules in this Part grant general permits for occupancy or uses of the C-18 right of way which are consistent with the use zones provided for in Rule 40E-62.651, F.A.C.~~

~~(a) General permits authorized by this Part shall be processed in accordance with the time frames, application forms, and application fees established pursuant to Chapters 40E-1 and 40E-6, F.A.C.~~

~~(b) The District shall require an individual permit pursuant to Chapter 40E-6, F.A.C., for any occupancy or use of the C-18 right of way which does not comply with this Part, is harmful to the water and related land resources of the District, is inconsistent with the C-18 use zones contained in Rule 40E-62.651, F.A.C., is inconsistent with the overall objectives of the District, or is otherwise contrary to the public interest.~~

~~(2) Occupancy or uses of the C-18 right of way which are inconsistent with the use zones provided for in Rule 40E-62.651, F.A.C., will not be eligible for a general permit under this Part.~~

~~Rulemaking Specific Authority 373.044, 373.113 FS. Law Implemented 373.085, 373.086 FS. History-New 1-23-90, Repealed _____.~~

40E-62.043 Application of Part.

~~All projects located within the C-18 canal right of way which require permits pursuant to Rules 40E-6.041 and 40E-62.041, F.A.C., shall be constructed, altered, operated, and maintained in accordance with the standards and criteria specified in Rules 40E-6.091, 40E-6.301, and 40E-62.651, F.A.C. The most restrictive criteria will apply unless the applicant can demonstrate to the District's satisfaction through accepted methodology that the policy and purpose of this Part will be fulfilled using alternate criteria.~~

~~Rulemaking Specific Authority 373.044, 373.113 FS. Law Implemented 373.085, 373.086 FS. History-New 1-23-90, Repealed _____.~~

40E-62.051 Exemptions.

~~(1) No permit is required under this Part for the improved boat docks in existence as of September 3, 1981, which include, but may not be limited to the following existing uses of the C-18 right of way:~~

~~(a) The existing boat dock located on lot 25.4, Figure 62-1, on the south side of the C-18 canal approximately 1800 feet west of Loxahatchee River Road (the Olsen dock).~~

~~(b) The existing boat dock located on lot 25.2, Figure 62-1, on the south side of the C-18 canal approximately 1900 feet west of Loxahatchee River Road (the Moore dock).~~

~~(2) The exemptions provided in section (1) above shall be in effect for as long as the property owner on the effective date of this rule owns and occupies the premises. A change in ownership or occupancy of the designated lots shall subject the boat docks to the requirements of this Part.~~

Rulemaking Specific Authority 373.044, 373.113 FS. Law Implemented 373.085, 373.086 FS. History-New 1-23-90, Repealed _____.

40E-62.101 Content of Application.

~~Applications for permits under this Part shall be filed with the District in accordance with the provisions of Rule 40E-6.101, F.A.C.~~

Rulemaking Specific Authority 373.044, 373.113 FS. Law Implemented 373.085, 373.086 FS. History-New 1-23-90, Repealed _____.

40E-62.301 Conditions for Issuance of Permits.

~~In determining whether an occupancy permit should be issued the District shall consider whether the proposed activity:~~

~~(1) Is consistent with the use zones established pursuant to Rule 40E-62.651, F.A.C.~~

~~(2) Meets the conditions of Rule 40E-6.301, F.A.C.~~

Rulemaking Specific Authority 373.044, 373.113 FS. Law Implemented 373.085, 373.086 FS. History-New 1-23-90, Repealed _____.

40E-62.321 Duration of Permits.

~~The duration of occupancy permits issued in accordance with this Part shall be as specified in Rule 40E-6.321, F.A.C.~~

Rulemaking Specific Authority 373.044, 373.113 FS. Law Implemented 373.085, 373.086 FS. History-New 1-23-90, Repealed _____.

40E-62.331 Modification of Permits.

~~Applications for modification to permitted uses shall be made in the same manner and reviewed using the same criteria and standards as new uses pursuant to Rules 40E-62.101, 40E-62.301, and 40E-62.321, F.A.C.~~

Rulemaking Specific Authority 373.044, 373.113 FS. Law Implemented 373.085, 373.086 FS. History-New 1-23-90, Repealed _____.

40E-62.341 Revocation of Permits.

~~(1) An occupancy permit issued pursuant to this Part may be revoked if the permitted use or maintenance practices are no longer consistent with the use zones specified in Rule 40E-62.651, F.A.C.~~

~~(2) Permits issued pursuant to this Part may be revoked pursuant to Rule 40E-6.341, F.A.C.~~

Rulemaking Specific Authority 373.044, 373.113 FS. Law Implemented 373.085, 373.086 FS. History-New 1-23-90, Repealed _____.

40E-62.351 Transfer of Permits.

~~Permits issued pursuant to this Part may be transferred in accordance with the provisions of Rule 40E-6.351, F.A.C.~~

Rulemaking Specific Authority 373.044, 373.113 FS. Law Implemented 373.085, 373.086 FS. History-New 1-23-90, Repealed _____.

40E-62.381 Limiting Conditions.

~~All projects which have been permitted pursuant to this Part shall be subject to the following limiting conditions:~~

~~(1) Maintenance practices or other activities not authorized by an occupancy permit which result in clearing or destruction of plant materials or modification of ground slopes or elevations shall be corrected by the permittee. Should the correction not be performed in a timely manner, the District may pursue corrective action against the permittee. In the event the permittee does not pursue the necessary corrective action, District forces may perform the work. In the event District forces perform the restorative work, the permittee shall be liable for the restoration costs.~~

~~(2) The District may install access control fences on District property on the C-18 right of way at locations to be determined by the District. Access control fences may obstruct or eliminate the view corridor overlay zones associated with said fence.~~

~~(3) The District may modify the vegetation on District property on the C-18 right of way at locations to be determined by the District.~~

~~(4) The permittee shall not engage in any activity in the area associated with the permit which interferes with the District's construction, alteration, maintenance or operation of the C-18 canal right of way, and shall be responsible for any costs incurred by the District resulting from any such interference including, but not limited to:~~

~~(a) Discharging debris or aquatic weeds into the C-18 canal, including the renovated portions of Limestone Creek;~~

~~(b) Causing erosion or shoaling within the C-18 canal right of way;~~

~~(c) Mooring watercraft or other floating objects;~~

~~(d) Planting plants which are not included in the District's authorized plant list, Figure 62-4, or which are not authorized by the permit;~~

~~(e) Placing plants in undesirable locations or locations not authorized by the permit.~~

~~(5) The permittee shall not engage in any activity which interferes with the environmental preservation and enhancement of the C-18 canal right of way, including, but not limited to:~~

~~(a) Trimming or removing existing natural mangroves unless in strict accordance with current permits;~~

~~(b) Trimming or removing vegetation along the C-18 canal right of way.~~

~~(6) The limiting conditions provided by Rule 40E-6.381, F.A.C.~~

~~Rulemaking Specific Authority 373.044, 373.113 FS. Law Implemented 373.083, 373.085, 373.086, 373.103, 373.129 FS. History—New 1-23-90, Repealed~~

~~40E-62.651 C-18 Use Zones.~~

~~(1) The following sections identify and describe the eight use zones that have been established within the C-18 canal right of way. Three of the use zones are identified as overlay zones. The overlay zones occupy lands in common with the other use zones and further define the use regulations in the underlying zone area. The eight use zones are:~~

- ~~(a) Canal Flood Zone;~~
- ~~(b) General Wildlife Area Zone;~~
- ~~(c) Limestone Creek Shallow Zone;~~
- ~~(d) Limestone Creek Zone;~~
- ~~(e) Fire Control Zone;~~
- ~~(f) Intertidal Wet Area Overlay Zone;~~
- ~~(g) Canal Flood Overlay Zone; and~~

~~(h) View Corridor Overlay Zone. The use zones are generally depicted in Figure 62-2. The overlay zones are generally depicted in Figure 62-3. The following provisions identify uses which are consistent and inconsistent with each use zone.~~

~~(2) The District has identified water skiing, jet skiing, and any other boating activity that produces boat wakes as inconsistent with the Canal Flood Zone, the Limestone Creek Shallow Zone, and the Limestone Creek Zone. Although the District does not have jurisdiction to regulate such activities, the District encourages users of the C-18 canal to observe no wake speeds. The district will also cooperate with the appropriate regulatory authorities to establish and maintain no wake zones in the above specified zones.~~

~~(3) There may be locations in the Limestone Creek Shallow Zone and the Limestone Creek Zone where boat docks and access platforms are proposed for installation on private property. The District views such boat docks and access platforms as inconsistent with the initial phases of the revegetation plan and discourages, but cannot and does not prohibit, construction of such boat docks and access platforms until the revegetation plan succeeds and until no wake speeds are established.~~

~~(4) Canal Flood Zone~~

~~(a) Description: This zone consists of the primary canal cross section designed for flood control. Said zone is defined as the area consisting of the canal, including 105' bottom width, 1 on 2 side slopes from elevation -6.0 to -3.0, 1 on 5 side slopes from elevation -3.0 to 3.0, or the channel as it currently exists. This zone shall be free of floating or submerged obstructions.~~

~~(b) Consistent uses include the following:~~

- ~~1. Fishing;~~

- ~~2. Public watercraft sightseeing and cruising;~~
- ~~3. Environmental study and appreciation;~~
- ~~4. Swimming;~~
- ~~5. Maintenance activities conducted by the District and the permittee; and~~

~~6. Navigation signs.~~

~~(c) Inconsistent uses include the following:~~

- ~~1. Mooring boats or other floating items;~~
- ~~2. Docks of any kind; and~~
- ~~3. Any activity which blocks, impedes or creates turbulence in the flow of water from flood control discharges.~~

~~(5) General Wildlife Area Zone~~

~~(a) Description: This zone consists of lands from above elevation 3.0 to the edge of the C-18 canal right of way. The area within this zone is intended for the primary use of wildlife and therefore is designed to provide food, cover and resting places for wildlife.~~

~~(b) Consistent uses include the following:~~

- ~~1. Typical and normal activities of wildlife residing in or visiting the area;~~
- ~~2. Environmental study and appreciation;~~
- ~~3. Public passage from upland, off-site areas to the C-18 canal right of way, including Limestone Creek;~~
- ~~4. Maintenance activities conducted by the District and the permittee;~~

~~5. Paths which meet the requirements of subsection 40E-62.651(5)(c), F.A.C.;~~

~~6. Permitted utility uses; and~~

~~7. Small group picnicking.~~

~~(c) Inconsistent uses include the following:~~

- ~~1. Clearing or substantial thinning of vegetation;~~
- ~~2. Capturing, trapping, hunting or otherwise taking, harassing or destroying wildlife, not including fishing and shellfishing activities or removing dangerous wildlife, such as poisonous snakes and rats;~~
- ~~3. Camping; and~~
- ~~4. Large group picnicking.~~

~~(d) Public passage areas shall not interfere with areas designed for food, cover, resting and passageways for wildlife. Users of the C-18 canal right of way are advised to dress properly for passage through native vegetation and are further advised that wildlife may be encountered.~~

~~(e) A general permit is in effect pursuant to this Part for paths which are designed and maintained for access by residents adjacent to the C-18 canal right of way subject to the following requirements:~~

- ~~1. Paths shall meet District design standards, generally following an irregular alignment in order to minimize interruption to wildlife areas, to minimize opening direct viewing corridors from the C-18 canal, and to discourage passage of the general public from the right of way onto private property;~~

2. Paths shall be a maximum of six feet in width;

3. ~~Path design shall include a landscape plan, a maintenance plan and details necessary to illustrate proposed construction. Sod and regular intervals of mowing will not be considered an acceptable path;~~

4. ~~Paths located within the C-18 right of way shall be open to the public; the District will consider alternative designs for paths which would allow access to the handicapped; and~~

5. ~~The District recognizes that adjacent property owners may erect signs or other barriers on their own property in order to limit public access to private property from the C-18 right of way.~~

~~(6) Limestone Creek Shallow Zone~~

~~(a) Description: This zone consists of the portions of Limestone Creek that are specified and designed to be one to two feet deep. This zone includes the portions of Limestone Creek depicted in Figure 62-1 and further described as follows:~~

~~1. Adjacent to River Oaks: Lots 17-21.~~

~~2. Adjacent to Jupiter Landings: 10' east of the westerly line of the boat storage area extending 56' east of the Central Blvd. bridge.~~

~~3. Adjacent to Riverwalk: 75' east of the Central Blvd. bridge extending to 500' east of the Central Blvd. bridge.~~

~~4. Adjacent to the remaining single family uses along the South of the Canal: 3000' east of the Central Blvd. bridge to 1100' west of the Loxahatchee River Road bridge.~~

~~(b) Consistent uses include the following:~~

~~1. Fishing;~~

~~2. Boating by low speed, low noise watercraft;~~

~~3. Environmental appreciation; and~~

~~4. Permitted maintenance activities.~~

~~(c) Inconsistent uses include the following:~~

~~1. Recreational or other activities that damage or remove plant or bank material.~~

~~(7) Limestone Creek Zone~~

~~(a) Description: This zone consists of the portions of Limestone Creek that are designed to be greater than two feet in depth and are not a part of the Limestone Creek Shallow Zone.~~

~~(b) Consistent uses include the following:~~

~~1. Fishing;~~

~~2. Environmental appreciation;~~

~~3. Sightseeing by water; and~~

~~4. Limited subdivision access, subject to zone requirements.~~

~~(c) Zone requirements for the Limestone Creek Zone include the following:~~

~~1. The adjacent residents have indicated interest in access to the water by subdivision. During the period that revegetation is proceeding, the District will allow limited subdivision access consisting of one access area per subdivision for the purpose of~~

~~canoe access and pedestrian access. Conditions will be specified per subdivision and will include, but not be limited to:~~

~~a. The revegetation is proceeding without delay and with success;~~

~~b. Subdivisions shall agree to design, construct and maintain access areas according to the provisions of Section 40E-62.651(7)(e)2., F.A.C.~~

~~2. Limited subdivision access areas shall meet the following requirements:~~

~~a. Design of all facilities which connect with the C-18 canal right of way or Limestone Creek shall be approved by the District through the permit process established by this Part;~~

~~b. The C-18 canal right of way shall remain open to the public;~~

~~c. Water access facilities placed upon the C-18 right of way shall be open to the general public and shall contain a permanent sign so stating; the sign shall be visible and legible from the center of the adjacent water area;~~

~~d. Access areas shall be available to the District for inspection, maintenance and other activities associated with District functions;~~

~~e. Access areas shall be kept in good repair, free of litter and provide minimum interruption to the view from the C-18 canal right of way; access areas will be landscaped to maximize the use of plant materials to blend the access area into the river character; uses related to the access point, such as parking, picnic, fish cleaning and similar uses will be screened from view; the design of access areas shall include a swale or other suitable system extending the entire length of the lot, including the access ramp, intended to divert overland water flows from paved areas into vegetated areas; such systems and vegetated areas are to provide detention of runoff to encourage percolation of water through earth and vegetation; and~~

~~f. Electrical and water facilities may be included on subdivision access facilities; facilities shall be designed to meet applicable county and city safety and building requirements; lighting equipment should be designed so as to minimize glare on the surface of or across the C-18 canal; water facilities shall be designed and maintained to function with no erosion or discharge of waste into the C-18 canal or Limestone Creek; said facilities shall not be for the purpose of providing service to live aboard boats or boat repair facilities.~~

~~(8) Fire Control Zone~~

~~(a) Description: This zone is intended to provide a buffer safety area to help prevent the spread of wildfire from the C-18 canal right of way onto private property. This zone shall consist of a fifteen foot wide area containing low native ground covers or grasses and mature native trees.~~

~~(b) Shrubs and trees that invade this zone may be removed to maintain the low character and protection; provided however, that mature trees must not be removed without a permit from the District.~~

~~(9) Intertidal Wet Area Overlay Zone~~

~~(a) Description: This zone includes lands that are inundated during periods of high tide, during parts or all of the year, and generally exposed during periods of low tide.~~

~~(b) Consistent uses include the following:~~

- ~~1. Maintenance and monitoring activities; and~~
- ~~2. Permitted utility uses, provided disturbed vegetation is replaced.~~

~~(c) Zone requirements for the Intertidal Wet Area Overlay Zone include the following:~~

- ~~1. Plants in this zone, especially mangroves, are not to be removed or pruned unless there is a current permit approved by Palm Beach County; a District permit issued pursuant to this Part, and any other permits required by law; pruning must be performed in strict accordance with the terms of all applicable permits.~~

~~(10) Canal Flood Overlay Zone~~

~~(a) Description: This zone consists of an overlay of the Canal Flood Zone including both sides of the canal from elevation -1.5, as measured from the edge of the water at low tide, to the top of the canal bank, as measured from the edge of the canal.~~

~~(b) Consistent uses include the following:~~

- ~~1. Fishing;~~
- ~~2. Environmental study and appreciation;~~
- ~~3. Temporary, not to exceed approximately four hours, stopping and anchoring of watercraft for permitted public recreational purposes;~~
- ~~4. Permitted maintenance activities; and~~
- ~~5. Swimming.~~

~~(c) Inconsistent uses include the following:~~

- ~~1. Recreational or other activities which damage or remove plant material or soil;~~
- ~~2. Camping; and~~
- ~~3. Mooring watercraft to mangroves.~~

~~(11) View Corridor Overlay Zone~~

~~(a) Description: This zone is intended to provide for a view of the canal from adjacent residential buildings. The District's intent is to allow vegetation on these areas with ground cover plant materials that remain low enough to allow view over the top, and trees that, when mature, allow view under the canopy.~~

~~(b) Consistent uses include the following:~~

- ~~1. Uses allowed in the underlying zones; and~~
- ~~2. Scenic viewing of the canal from residences.~~

~~(c) Inconsistent uses include the following:~~

- ~~1. Uses that substantially obstruct the intended view, unless the obstruction is caused by immature vegetation; and~~
- ~~2. Uses that are not consistent with underlying zones.~~

~~(d) Zone regulations for the View Corridor Overlay Zone:~~

- ~~1. Maintenance will be limited to minimal care of plant materials;~~
- ~~2. Ground covers will be left at their natural height with no mowing or clearing;~~
- ~~3. Pathways shall conform to regulations in the General Wildlife Zone;~~
- ~~4. Tree pruning shall require a current District permit issued pursuant to this Part, prior written notification, and District approval each time a permittee proposes to prune. Said notification shall include photographs of the trees(s) to be pruned;~~
- ~~5. Permit applications shall include photographs of the tree prior to work being accomplished.~~

~~Rulemaking Specific Authority 373.044, 373.113 FS. Law Implemented 373.085, 373.086 FS. History-New 1-23-90, Repealed_____.~~

NAME OF PERSON ORIGINATING PROPOSED RULE:
 Jorge Patino, Section Administrator – Right of Way, South Florida Water Management District, Post Office Box 24680, West Palm Beach, FL 33416-4680, telephone 1(800)432-2045, ext. 6175 or (561)682-6175 or by email to jpatino@sfwmd.gov
 NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: South Florida Water Management District Governing Board

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 14, 2013

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: June 29, 2012

WATER MANAGEMENT DISTRICTS

South Florida Water Management District

RULE NOS.:	RULE TITLES:
40E-400.010	Review of No Notice and Noticed General Environmental Resource Permit Applications
40E-400.021	Definitions
40E-400.201	Policy and Purpose
40E-400.211	Processing Procedures for Noticed General Permits
40E-400.215	General Conditions for All No Notice and Noticed General Permits
40E-400.315	No Notice General Permit for Activities in Uplands
40E-400.316	No Notice General Permit for Road Grading and Pavement Resurfacing

40E-400.417	General Permit for Construction, Alteration or Maintenance of Boat Ramps and Associated Accessory Docks	40E-400.487	General Permit to the Department to Change Operating Schedules for Department or District Water Control Structures
40E-400.427	General Permit for Certain Piers and Associated Structures	40E-400.495	General Permit to U.S. Forest Service for Minor Works within National Forests
40E-400.431	General Permit for Installation of Riprap	40E-400.500	General Permit for Construction, Operation, Maintenance, Alteration, Removal or Abandonment of Minor Silvicultural Surface Water Management Systems
40E-400.437	General Permit for the Installation of Fences		Forms and Instructions
40E-400.439	General Permit for the Construction or Maintenance of Culverted Driveways or Roadway Crossings and Bridges of Artificial Waterways	40E-400.900	PURPOSE AND EFFECT: The South Florida Water Management District (“District”) proposes to repeal these rules to be consistent with Section 373.4131, F.S. (2012), which requires the Florida Department of Environmental Protection (“DEP”), in coordination with the five water management districts (“WMDs”), to develop environmental resource permitting (“ERP”) rules, to be applicable statewide. To implement Section 373.4131, F.S., DEP has published a Notice of Rule Development in the <i>Florida Administrative Register</i> and has posted preliminary draft rule text on its website at http://www.dep.state.fl.us/water/wetlands/swerp/index.htm . DEP’s proposed rulemaking for Chapter 62-330, F.A.C., will result in these rules becoming duplicative and unnecessary.
40E-400.443	General Permit for Minor Bridge Alteration, Replacement, Maintenance and Operation		SUMMARY: The proposed rules will be repealed as the subject matter of these rules will be addressed in Chapter 62-330, F.A.C.
40E-400.447	General Permit for Minor Activities Within Existing FDOT Rights-of-Way or Easements		SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:
40E-400.453	General Permit for the Installation, Maintenance, Repair or Removal of Underground Cables, Conduits, or Pipelines		The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.
40E-400.455	General Permit for the Construction of Aerial Pipeline, Cable, or Conduit Crossings of Certain Waters		The District is proposing to repeal this Rule Chapter. The repeals will have no adverse impact on small business.
40E-400.457	General Permit for Subaqueous Utility Crossings of Artificial Waterways		The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: The District has completed for the Governor’s Office of Fiscal Accountability and Regulatory Reform (OFARR) the form entitled “Is a SERC Required?” and prepared a summary of the proposed rule amendments, which are both available upon request. Based on the completed form entitled “Is a SERC Required?” and summary and the analysis performed by
40E-400.463	General Permit for the Construction and Operation of Culverts and Associated Water Control Structures in Mosquito Control Impoundments by Governmental Mosquito Control Agencies		
40E-400.467	General Permit for Breaching Mosquito Control Impoundments by Governmental Mosquito Control Agencies		
40E-400.470	Noticed General Permit for Temporary Agricultural Activities		
40E-400.475	General Permit for Minor Activities		
40E-400.483	General Permit to the Department to Conduct Minor Activities		
40E-400.485	General Permit to the Department for Environmental Restoration or Enhancement Activities		

District staff in preparing and completing those documents, the proposed rule amendments are not expected to require legislative ratification pursuant to subsection 120.54(3), F.S.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 120.54(5), 120.60, 373.044, 373.113, 373.118, 373.171, 373.406, 373.4131, 403.067(7)(d), 403.813, 403.814, 668.003, 668.004, 668.50 FS.

LAW IMPLEMENTED: 120.54(5), 120.60, 373.109, 373.118, 373.119, 373.406, 373.413, 373.4131, 373.416, 373.418, 373.423, 373.426, 403.067(7)(d), 668.003, 668.004, 668.50 FS.

A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW:

DATE AND TIME: May 9, 2013, 9:00 a.m.

PLACE: South Florida Water Management District Headquarters, B-1 Auditorium, 3301 Gun Club Road, West Palm Beach, FL 33406

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: South Florida Water Management District Clerk's Office, (800)432-2045, ext. 2087, or (561)682-2087. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Anita R. Bain, Environmental Resource Permitting Bureau Chief, South Florida Water Management District, 3301 Gun Club Road, West Palm Beach, FL 33406, 1(800)432-2045, ext. 6866 or (561)682-6866, abain@sfwmd.gov. For procedural questions, contact Jan Sluth, Paralegal, South Florida Water Management District, 3301 Gun Club Road, West Palm Beach, FL 33406, 1(800)432-2045, ext. 6299, or (561)682-6299, jsluth@sfwmd.gov. Information regarding this rulemaking process can be accessed at SFWMD's website at <http://www.sfwmd.gov/rules>.

THE FULL TEXT OF THE PROPOSED RULE IS:

40E-400.010 Review of No Notice and Noticed General Environmental Resource Permit Applications.

Rulemaking Authority 120.54(5), 120.60 FS. Law Implemented 120.54(5), 120.60 FS. History–New 7-2-98, Repealed.

This rule will become effective on July 1, 2013, or upon the date that amendments to Chapter 62-330, F.A.C., proposed by the Department of Environmental Protection to implement the statutory mandate in Section 373.4131, F.S. (2012), take effect, whichever is later.

40E-400.021 Definitions.

Rulemaking Authority 373.044, 373.113, 373.118, 373.171 FS. Law Implemented 373.118, 373.413, 373.416, 373.426 FS. History–New 10-3-95, Amended 4-14-03, 5-20-12, Repealed.

This rule will become effective on July 1, 2013, or upon the date that amendments to Chapter 62-330, F.A.C., proposed by the Department of Environmental Protection to implement the statutory mandate in Section 373.4131, F.S. (2012), take effect, whichever is later.

40E-400.201 Policy and Purpose.

Rulemaking Authority 373.044, 373.113, 373.118 FS. Law Implemented 373.118, 373.413, 373.416, 373.426 FS. History–New 10-3-95, Repealed.

This rule will become effective on July 1, 2013, or upon the date that amendments to Chapter 62-330, F.A.C., proposed by the Department of Environmental Protection to implement the statutory mandate in Section 373.4131, F.S. (2012), take effect, whichever is later.

40E-400.211 Processing Procedures for Noticed General Permits.

Rulemaking Authority 373.044, 373.113, 373.118, 668.003, 668.004, 668.50 FS. Law Implemented 373.109, 373.118, 373.413, 373.416, 373.426, 668.003, 668.004, 668.50 FS. History–New 10-3-95, Amended 7-2-98, 10-1-06, 12-1-11, 5-20-12, Repealed.

This rule will become effective on July 1, 2013, or upon the date that amendments to Chapter 62-330, F.A.C., proposed by the Department of Environmental Protection to implement the statutory mandate in Section 373.4131, F.S. (2012), take effect, whichever is later.

40E-400.215 General Conditions for All No Notice and Noticed General Permits.

Rulemaking Authority 373.044, 373.113, 373.118 FS. Law Implemented 373.109, 373.118, 373.413, 373.416, 373.426 FS. History–New 10-3-95, Amended 7-2-98, Repealed.

This rule will become effective on July 1, 2013, or upon the date that amendments to Chapter 62-330, F.A.C., proposed by the Department of Environmental Protection to implement the statutory mandate in Section 373.4131, F.S. (2012), take effect, whichever is later.

40E-400.315 No Notice General Permit for Activities in Uplands.

Rulemaking Authority 373.044, 373.113, 373.118, 373.171, 373.4131, 403.813, 403.814 FS. Law Implemented 373.118, 373.413, 373.4131, 373.416, 373.426 FS. History–New 10-3-95, Amended 4-14-03, 10-18-09, Repealed.

This rule will become effective on July 1, 2013, or upon the date that amendments to Chapter 62-330, F.A.C., proposed by the Department of Environmental Protection to implement the statutory mandate in Section 373.4131, F.S. (2012), take effect, whichever is later.

40E-400.316 No Notice General Permit for Road Grading and Pavement Resurfacing.

Rulemaking Authority 373.044, 373.113, 373.118 FS. Law Implemented 373.118, 373.413, 373.416, 373.426 FS. History—New 10-3-95, Repealed _____.

This rule will become effective on July 1, 2013, or upon the date that amendments to Chapter 62-330, F.A.C., proposed by the Department of Environmental Protection to implement the statutory mandate in Section 373.4131, F.S. (2012), take effect, whichever is later.

40E-400.417 General Permit for Construction, Alteration or Maintenance of Boat Ramps and Associated Accessory Docks.

Rulemaking Authority 373.044, 373.113, 373.118, 373.171, 373.406 FS. Law Implemented 373.118, 373.406, 373.413, 373.416, 373.426 FS. History—New 10-3-95, Amended 4-14-03, 12-1-11, Repealed _____.

This rule will become effective on July 1, 2013, or upon the date that amendments to Chapter 62-330, F.A.C., proposed by the Department of Environmental Protection to implement the statutory mandate in Section 373.4131, F.S. (2012), take effect, whichever is later.

40E-400.427 General Permit for Certain Piers and Associated Structures.

Rulemaking Authority 373.044, 373.113, 373.118 FS. Law Implemented 373.118, 373.413, 373.416, 373.426 FS. History—New 10-3-95, Repealed _____.

This rule will become effective on July 1, 2013, or upon the date that amendments to Chapter 62-330, F.A.C., proposed by the Department of Environmental Protection to implement the statutory mandate in Section 373.4131, F.S. (2012), take effect, whichever is later.

40E-400.431 General Permit for Installation of Riprap.

Rulemaking Authority 373.044, 373.113, 373.118 FS. Law Implemented 373.118, 373.413, 373.416, 373.426 FS. History—New 10-3-95, Repealed _____.

This rule will become effective on July 1, 2013, or upon the date that amendments to Chapter 62-330, F.A.C., proposed by the Department of Environmental Protection to implement the statutory mandate in Section 373.4131, F.S. (2012), take effect, whichever is later.

40E-400.437 General Permit for the Installation of Fences.

Rulemaking Authority 373.044, 373.113, 373.118 FS. Law Implemented 373.118, 373.413, 373.416, 373.426 FS. History—New 10-3-95, Repealed _____.

This rule will become effective on July 1, 2013, or upon the date that amendments to Chapter 62-330, F.A.C., proposed by the Department of Environmental Protection to implement the statutory mandate in Section 373.4131, F.S. (2012), take effect, whichever is later.

40E-400.439 General Permit for the Construction or Maintenance of Culverted Driveways or Roadway Crossings and Bridges of Artificial Waterways.

Rulemaking Authority 373.044, 373.113, 373.118 FS. Law Implemented 373.118, 373.413, 373.416, 373.426 FS. History—New 10-3-95, Repealed _____.

This rule will become effective on July 1, 2013, or upon the date that amendments to Chapter 62-330, F.A.C., proposed by the Department of Environmental Protection to implement the statutory mandate in Section 373.4131, F.S. (2012), take effect, whichever is later.

40E-400.443 General Permit for Minor Bridge Alteration, Replacement, Maintenance and Operation.

Rulemaking Authority 373.044, 373.113, 373.118 FS. Law Implemented 373.118, 373.413, 373.414, 373.416, 373.426 FS. History—New 10-3-95, Amended 9-9-07, 12-1-11, Repealed _____.

This rule will become effective on July 1, 2013, or upon the date that amendments to Chapter 62-330, F.A.C., proposed by the Department of Environmental Protection to implement the statutory mandate in Section 373.4131, F.S. (2012), take effect, whichever is later.

40E-400.447 General Permit for Minor Activities Within Existing Rights-of-Way or Easements.

Rulemaking Authority 373.044, 373.113, 373.118 FS. Law Implemented 373.118, 373.413, 373.414, 373.416, 373.426 FS. History—New 10-3-95, Amended 6-26-02, 9-9-07, 12-1-11, Repealed _____.

This rule will become effective on July 1, 2013, or upon the date that amendments to Chapter 62-330, F.A.C., proposed by the Department of Environmental Protection to implement the statutory mandate in Section 373.4131, F.S. (2012), take effect, whichever is later.

40E-400.453 General Permit for the Installation, Maintenance, Repair or Removal of Underground Cables, Conduits, or Pipelines.

Rulemaking Authority 373.044, 373.113, 373.118 FS. Law Implemented 373.118, 373.413, 373.416, 373.426 FS. History—New 10-3-95, Repealed _____.

This rule will become effective on July 1, 2013, or upon the date that amendments to Chapter 62-330, F.A.C., proposed by the Department of Environmental Protection to implement the statutory mandate in Section 373.4131, F.S. (2012), take effect, whichever is later.

40E-400.455 General Permit for the Construction of Aerial Pipeline, Cable, or Conduit Crossings of Certain Waters.

Rulemaking Authority 373.044, 373.113, 373.118 FS. Law Implemented 373.118, 373.413, 373.416, 373.426 FS. History—New 10-3-95, Repealed _____.

This rule will become effective on July 1, 2013, or upon the date that amendments to Chapter 62-330, F.A.C., proposed by the Department of Environmental Protection to implement the statutory mandate in Section 373.4131, F.S. (2012), take effect, whichever is later.

40E-400.457 General Permit for Subaqueous Utility Crossings of Artificial Waterways.

Rulemaking Authority 373.044, 373.113, 373.118 FS. Law Implemented 373.118, 373.413, 373.416, 373.426 FS. History--New 10-3-95, Repealed.

This rule will become effective on July 1, 2013, or upon the date that amendments to Chapter 62-330, F.A.C., proposed by the Department of Environmental Protection to implement the statutory mandate in section 373.4131, F.S. (2012), take effect, whichever is later.

40E-400.463 General Permit for the Construction and Operation of Culverts and Associated Water Control Structures in Mosquito Control Impoundments by Governmental Mosquito Control Agencies.

Rulemaking Authority 373.044, 373.113, 373.118 FS. Law Implemented 373.118, 373.413, 373.416, 373.426 FS. History--New 10-3-95, Repealed.

This rule will become effective on July 1, 2013, or upon the date that amendments to Chapter 62-330, F.A.C., proposed by the Department of Environmental Protection to implement the statutory mandate in Section 373.4131, F.S. (2012), take effect, whichever is later.

40E-400.467 General Permit for Breaching Mosquito Control Impoundments by Governmental Mosquito Control Agencies.

Rulemaking Authority 373.044, 373.113, 373.118, 373.171 FS. Law Implemented 373.118, 373.413, 373.416, 373.426 FS. History--New 10-3-95, Amended 4-14-03, Repealed.

This rule will become effective on July 1, 2013, or upon the date that amendments to Chapter 62-330, F.A.C., proposed by the Department of Environmental Protection to implement the statutory mandate in Section 373.4131, F.S. (2012), take effect, whichever is later.

40E-400.470 Noticed General Permit for Temporary Agricultural Activities.

Rulemaking Authority 373.044, 373.113, 373.118 FS. Law Implemented 120.60, 373.118, 373.119, 373.413, 373.416, 373.418, 373.423 FS. History--New 9-6-01, Amended 12-1-11, Repealed.

This rule will become effective on July 1, 2013, or upon the date that amendments to Chapter 62-330, F.A.C., proposed by the Department of Environmental Protection to implement the statutory mandate in Section 373.4131, F.S. (2012), take effect, whichever is later.

40E-400.475 General Permit for Minor Activities.

Rulemaking Authority 373.044, 373.113, 373.118, 668.003, 668.004, 668.50 FS. Law Implemented 373.118, 373.413, 373.416, 373.426, 668.003, 668.004, 668.50 FS. History--New 10-3-95, Amended 10-1-06, 12-1-11, Repealed.

This rule will become effective on July 1, 2013, or upon the date that amendments to Chapter 62-330, F.A.C., proposed by the Department of Environmental Protection to implement the statutory mandate in Section 373.4131, F.S. (2012), take effect, whichever is later.

40E-400.483 General Permit to the Department to Conduct Minor Activities.

Rulemaking Authority 373.044, 373.113, 373.118 FS. Law Implemented 373.118, 373.413, 373.416, 373.426 FS. History--New 10-3-95, Amended 4-14-03, Repealed.

This rule will become effective on July 1, 2013, or upon the date that amendments to Chapter 62-330, F.A.C., proposed by the Department of Environmental Protection to implement the statutory mandate in Section 373.4131, F.S. (2012), take effect, whichever is later.

40E-400.485 General Permit to the Department for Environmental Restoration or Enhancement Activities.

Rulemaking Authority 373.044, 373.113, 373.118, 373.171 FS. Law Implemented 373.118, 373.413, 373.416, 373.426 FS. History--New 10-3-95, Amended 4-14-03, Repealed.

This rule will become effective on July 1, 2013, or upon the date that amendments to Chapter 62-330, F.A.C., proposed by the Department of Environmental Protection to implement the statutory mandate in Section 373.4131, F.S. (2012), take effect, whichever is later.

40E-400.487 General Permit to the Department to Change Operating Schedules for Department or District Water Control Structures.

Rulemaking Authority 373.044, 373.113, 373.118 FS. Law Implemented 373.118, 373.416 FS. History--New 10-3-95, Amended 12-1-11, Repealed.

This rule will become effective on July 1, 2013, or upon the date that amendments to Chapter 62-330, F.A.C., proposed by the Department of Environmental Protection to implement the statutory mandate in Section 373.4131, F.S. (2012), take effect, whichever is later.

40E-400.495 General Permit to U.S. Forest Service for Minor Works within National Forests.

Rulemaking Authority 373.044, 373.113, 373.118 FS. Law Implemented 373.118, 373.413, 373.416, 373.426 FS. History--New 10-3-95, Repealed.

This rule will become effective on July 1, 2013, or upon the date that amendments to Chapter 62-330, F.A.C., proposed by the Department of Environmental Protection to implement the statutory mandate in Section 373.4131, F.S. (2012), take effect, whichever is later.

40E-400.500 General Permit for Construction, Operation, Maintenance, Alteration, Removal or Abandonment of Minor Silvicultural Surface Water Management Systems.

Rulemaking Authority 373.044, 373.113, 373.118, 403.067(7)(d) FS. Law Implemented 373.118, 373.413, 373.416, 373.426, 403.067(7)(d) FS. History--New 10-3-95, Amended 12-1-11, Repealed.

This rule will become effective on July 1, 2013, or upon the date that amendments to Chapter 62-330, F.A.C., proposed by the Department of Environmental Protection to implement the statutory mandate in Section 373.4131, F.S. (2012), take effect, whichever is later.

40E-400.900 Forms and Instructions.

Rulemaking Authority 373.044, 373.113, 373.118 FS. Law Implemented 373.118, 373.413, 373.416, 373.426 FS. History--New 10-3-95, Repealed _____.

This rule will become effective on July 1, 2013, or upon the date that amendments to Chapter 62-330, F.A.C., proposed by the Department of Environmental Protection to implement the statutory mandate in Section 373.4131, F.S. (2012), take effect, whichever is later.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Anita R. Bain, Environmental Resource Permitting Bureau Chief

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: South Florida Water Management District Governing Board

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 14, 2013

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: September 28, 2012

Section III
Notices of Changes, Corrections and Withdrawals

BOARD OF TRUSTEES OF INTERNAL IMPROVEMENT TRUST FUND

RULE NO.: 18-1.002
RULE TITLE: Definitions

NOTICE OF CORRECTION

Notice is hereby given that the following correction has been made to the proposed rule in Vol. 38, No. 99, December 28, 2012 issue of the Florida Administrative Register.

This notice corrects an incorrect citation in the Notice of Change published in Vol. 39, No. 68, April 8, 2013 issue of the Florida Administrative Register which incorrectly referenced Vol. 39, No. 67, April 5, 2013, as the Florida Administrative Register in which the proposed rule had been published.

Section IV
Emergency Rules

NONE

Section V
Petitions and Dispositions Regarding Rule Variance or Waiver

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION
Division of Alcoholic Beverages and Tobacco

NOTICE IS HEREBY GIVEN that on March 27, 2013, the Division of Alcoholic Beverages and Tobacco, Department of Business and Professional Regulation, State of Florida, received a petition for Rule No: 61A-2.014: Applications.

Nature of the rule for which variance or waiver is sought: The Petition requests a waiver of Rule 61A-2.014, F.A.C., subsection (6), which requires all directors or officers of a corporation with an interest in an alcoholic beverage license to file a set of fingerprints at the time of making application for a beverage license or at the time an interest is created after a license has been issued. The Petitioner is substantially affected by the particular circumstances, due to the extensive travel schedules of the positions, and responsibilities, for which this waiver is sought.

A copy of the Petition for Variance or Waiver may be obtained by contacting: Joy Cottrell, Department of Business and Professional Regulation, Division of Alcoholic Beverages and Tobacco, 1940 North Monroe Street, Tallahassee, Florida 32399-2202.

Section VI
Notices of Meetings, Workshops and Public Hearings

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

The Florida State Fair Authority announces a public meeting to which all persons are invited.

DATE AND TIME: April 23, 2013, 6:30 p.m.

PLACE: Florida State Fairgrounds

GENERAL SUBJECT MATTER TO BE CONSIDERED: Town Hall Meeting - has been cancelled due to meeting conflict and rescheduled for April 23, 2013 to discuss the 2013 Florida State Fair which was published on 3/29/2013

A copy of the agenda may be obtained by contacting: Sonia Velez, (813)627-4221.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 2 days before the workshop/meeting by contacting: Sonia Velez, (813)627-4221. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, (800)955-8771 (TDD) or (800)955-8770 (Voice).

For more information, you may contact: Sonia Velez, (813)627-4221.

DEPARTMENT OF EDUCATION

The Florida Education Foundation announces a telephone conference call to which all persons are invited.

DATE AND TIME: Wednesday, April 17, 2013, 1:00 p.m. – 3:00 p.m. (EDT) or until adjournment

PLACE: Contact Deb Schroeder at (850)245-9671 for call-in number

GENERAL SUBJECT MATTER TO BE CONSIDERED: Foundation issues including but not limited to approval of minutes from the January 29, 2013 meeting, program updates, financial report, executive director's report and general discussion of Foundation business.

A copy of the agenda may be obtained by contacting: Deb Schroeder at (850)245-9671.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 2 days before the workshop/meeting by contacting: Deb Schroeder at (850)245-9671. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, (800)955-8771 (TDD) or (800)955-8770 (Voice).

EXECUTIVE OFFICE OF THE GOVERNOR

The Governor's Commission on Jobs for Floridians with Disabilities - Employer Outreach Subcommittee announces a telephone conference call to which all persons are invited.

DATE AND TIME: April 17, 2013, 1:00 p.m.

PLACE: (888)670-3525; Conference Code: 2788708683

GENERAL SUBJECT MATTER TO BE CONSIDERED: To discuss general business of the Governor's Commission on Jobs for Floridians with Disabilities pursuant to Executive Order 11-161.

A copy of the agenda may be obtained by contacting: David Darm at (850)717-9433 or David.Darm@laspbs.state.fl.us.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 3 days before the workshop/meeting by contacting: David Darm at (850)717-9433 or David.Darm@laspbs.state.fl.us. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, (800)955-8771 (TDD) or (800)955-8770 (Voice).

For more information, you may contact: David Darm at (850)717-9433 or David.Darm@laspbs.state.fl.us.

WATER MANAGEMENT DISTRICTS

South Florida Water Management District

The South Florida Water Management District announces a public meeting to which all persons are invited.

DATE AND TIME: April 19, 2013, 10:00 a.m.; East Coast Region Land Assessment Meeting

PLACE: South Florida Water Management District, B-1 Auditorium, 3301 Gun Club Road, West Palm Beach, FL 33406

GENERAL SUBJECT MATTER TO BE CONSIDERED: District staff shall provide information regarding the land assessment process and District lands within the East Coast Region. The purpose of the land assessment is to take a comprehensive and detailed look at the District's land inventory to ensure that the present and future use of these lands will be utilized in the most effective manner to support the District's core mission requirements, and to comply with other important state policy objectives. Public input and comment will be received. More information about the process is available at www.sfwmd.gov/landassessment.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: The District Clerk's Office, (561)682-2087. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, (800)955-8771 (TDD) or (800)955-8770 (Voice).

For more information, you may contact: Andrea Schluter, aschlut@sfwmd.gov.

DEPARTMENT OF ELDER AFFAIRS

Alzheimer's Disease Initiative

The Department of Elder Affairs, Alzheimer's Disease Advisory Committee, announces a public meeting to which all persons are invited.

DATE AND TIME: April 26, 2013, 1:30 p.m. - 3:30 p.m.

PLACE: Beardall Senior Center, 800 South Delaney Avenue, Orlando, Florida 32801

GENERAL SUBJECT MATTER TO BE CONSIDERED: Discussion of Alzheimer's Disease Committee Initiatives.

A copy of the agenda may be obtained by contacting: Karen Griffith, 4040 Esplanade Way, Tallahassee, Florida 32399-7000, (850)414-2000, griffithkb@elderaffairs.org.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 72 hours before the workshop/meeting by contacting: Karen Griffith, 4040 Esplanade Way, Tallahassee, Florida 32399-7000, (850)414-2000, griffithkb@elderaffairs.org. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, (800)955-8771 (TDD) or (800)955-8770 (Voice).

For more information, you may contact: Karen Griffith, 4040 Esplanade Way, Tallahassee, Florida 32399-7000, (850)414-2000, griffithkb@elderaffairs.org.

AGENCY FOR HEALTH CARE ADMINISTRATION

Health Facility and Agency Licensing

The Agency for Health Care Administration announces a telephone conference call to which all persons are invited.

DATE AND TIME: Monday, April 22, 2013, 2:00 p.m.
 PLACE: (888)670-3525, Conference Code: 8050334011
 GENERAL SUBJECT MATTER TO BE CONSIDERED: The Governor's Panel on Excellence in Long-Term Care will be meeting to review applications received for consideration for the Gold Seal Award designation. Other business as needed may also be discussed.

A copy of the agenda may be obtained by contacting: Ms. Jacquie Williams, Long-Term Care Services Unit, Agency for Health Care Administration, 2727 Mahan Drive, Mail Stop #33, Tallahassee, Florida 32308, (850)412-4437, jacqueline.williams@ahca.myflorida.com.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

RULE NO.: RULE TITLE:

62-304.515: Kissimmee River Basin TMDLs

The Department of Environmental Protection announces a workshop to which all persons are invited.

DATE AND TIME: Friday, April 26, 2013, 9:30 a.m.

PLACE: 1 Courthouse Square, Commission Chamber Room #4100, Kissimmee, Florida

GENERAL SUBJECT MATTER TO BE CONSIDERED: To receive public comments on draft dissolved oxygen and/or nutrient total maximum daily load (TMDL) reports for impaired lakes in the Kissimmee River Basin, to be adopted in Rule 62-304.515, F.A.C. The TMDLs to be presented at the public workshop include nutrient TMDLs for Lake Holden (WBID 3168H), Lake Cypress (WBID 3180A), Lake Kissimmee (WBID 3183B), and Lake Marian (WBID 3184), and dissolved oxygen and nutrient TMDLs for Lake Jackson (WBID 3183G). Furthermore, upon paragraph 62-302.531(2)(a), F.A.C., becoming effective, these nutrient TMDLs will constitute site specific numeric interpretations of the narrative nutrient criterion set forth in paragraph 62-302.530(47)(b), F.A.C. The draft TMDL documents for these impaired waters will be placed on the Department's TMDL website (<http://www.dep.state.fl.us/water/tmdl/>) by April 12, 2013 and will be provided upon request to interested parties by mail or via e-mail distribution. The Department will accept written comments on the draft TMDLs and their utilization as site specific nutrient water quality criteria through May 13, 2013. Written comments should be directed to: Jan Mandrup-Poulsen, Environmental Administrator, Watershed Evaluation and TMDL Section, Florida Department of Environmental Protection, Mail Station 3555, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400, or via email at: jan.mandrup-poulsen@dep.state.fl.us. This rulemaking has been given OGC case number 11-0653.

A copy of the agenda may be obtained by contacting: Ms. Pat Waters, Watershed Evaluation and TMDL Section, MS 3555, Department of Environmental Protection, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400 or by calling (850)245-8449.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 48 hours before the workshop/meeting by contacting: Ms. Pat Waters at (850)245-8449. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, (800)955-8771 (TDD) or (800)955-8770 (Voice).

DEPARTMENT OF ENVIRONMENTAL PROTECTION

The Department of Environmental Protection announces a hearing to which all persons are invited.

DATE AND TIME: Thursday, May 9, 2013, 6:00 p.m.

PLACE: DeSoto County Administration Building (Commission Meeting Room).

GENERAL SUBJECT MATTER TO BE CONSIDERED: Public testimony on all Florida Forever land acquisition projects, new proposals, and ranking within categories.

For further information and/or a copy of the agenda contact the Office of Environmental Service, Hank Vinson, at (850)245-2713 and hank.vinson@dep.state.fl.us.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 hours before the workshop/meeting by contacting: Archbold Biological Station, Mary Gross at (863)465-2571, x 221. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, (800)955-8771 (TDD) or (800)955-8770 (Voice).

DEPARTMENT OF HEALTH

Board of Clinical Laboratory Personnel

The Florida Board of Clinical Laboratory Personnel announces a public meeting to which all persons are invited.

DATE AND TIME: Friday, May 10, 2013, 9:00 a.m.

PLACE: Rosen Plaza, 9700 International Drive, Orlando, Florida 32819, (407)996-9700

GENERAL SUBJECT MATTER TO BE CONSIDERED: General board business.

A copy of the agenda may be obtained by contacting: Sherra W. Causey, Board of Clinical Laboratory Personnel, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257 or by accessing the board's web site at www.doh.state.fl.us/mqa/clinlab/index.html

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 48 hours before the workshop/meeting by contacting: Sherra W. Causey. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, (800)955-8771 (TDD) or (800)955-8770 (Voice).

If any person decides to appeal any decision made by the Board with respect to any matter considered at this meeting or hearing, he/she will need to ensure that a verbatim record of the proceeding is made, which record includes the testimony and evidence from which the appeal is to be issued.

ENTERPRISE FLORIDA, INC.

The Enterprise Florida, Inc. and the Florida Defense Support Task Force announces a public meeting to which all persons are invited.

DATE AND TIME: Thursday, April 18, 2013, 8:00 a.m. – 10:00 a.m.

PLACE: DoubleTree by Hilton, 101 South Adams Street, Tallahassee, FL 32301

GENERAL SUBJECT MATTER TO BE CONSIDERED: The Florida Defense Support Task Force makes recommendations to the Governor and Legislature to promote, protect and enhance Florida's military missions and installations and to improve the state's military-friendly environment for service members, military dependents, military retirees, and businesses which bring military and base-related jobs to Florida. The Task Force routinely reviews and discusses a wide range of military and defense-related issues that support this mission.

A copy of the agenda may be obtained by contacting: Donna Cucinella, (850)878-4566, dcucinella@eflorida.com; Bruce Grant, (850)878-0826, bgrant@eflorida.com.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 1 day before the workshop/meeting by contacting: Donna Cucinella, (850)878-4566, dcucinella@eflorida.com; Bruce Grant, (850)878-0826, bgrant@eflorida.com. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, (800)955-8771 (TDD) or (800)955-8770 (Voice).

For more information, you may contact: Donna Cucinella, (850)878-4566, dcucinella@eflorida.com; Bruce Grant, (850)878-0826, bgrant@eflorida.com.

ATKINS – BARTOW

The Florida Department of Transportation, District One, is holding a public information workshop for US 98 Project Development and Environment study from US 27 to east of Airport Road, now Haywood Taylor Boulevard, in Highlands County. All members of the public are invited to attend.

DATE AND TIME: Tuesday, April 16, 2013, 5:00 p.m. – 7:00 p.m.

PLACE: Chateau Elan, 150 Midway Drive, Sebring, Florida 33870

FDOT will hold a public workshop to provide information about proposed widening to US 98 from two to four lanes. The workshop is an open house with no formal presentation. Project staff will display plans and answer questions about proposed widening alternatives for US 98. Proposed widening alternatives will require acquisition of right-of-way for road improvements and stormwater management ponds. Existing access to properties along US 98 will change due to the addition of a median, a result of widening the road. The department sent notices to all property owners and interested people located at least 300 feet on either side of US 98 within the project limits. The workshop is developed in compliance with Title VI of the Civil Rights Act of 1964 and related statutes. Public participation is solicited without regard to race, color, national origin, age, sex, religion, disability or family status.

People who require special accommodations under the Americans with Disabilities Act or people who require translation services (free of charge) should contact FDOT project manager, Mr. Aaron Kaster, at (863)519-2495 or Aaron.Kaster@dot.state.fl.us at least seven days prior to the hearing. If you are hearing or speech impaired, please contact the Florida Department of Transportation using the Florida Relay Service, (800)955-8771 (TDD) or (800)955-8770 (Voice).

For more information about the project, please contact Mr. Kaster at the above phone number or email address.

Section VII
Notices of Petitions and Dispositions
Regarding Declaratory Statements

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Division of Florida Condominiums, Timeshares and Mobile Homes

NOTICE IS HEREBY GIVEN that the Division of Florida Condominiums, Timeshares, and Mobile Homes, Department of Business and Professional Regulation, State of Florida, has received the petition for declaratory statement from Mark F. Grant, Esq., In Re: De Soleil South Beach Residential Condominium Association, Inc., Docket No. 2013015521, filed on April 4, 2013. The petition seeks the agency's opinion as to the applicability of Section 718.103(23), Florida Statutes as it applies to the petitioner.

Whether De Soleil South Beach Residential Condominium, offered to the public as transient lodging and operated as Z Ocean Hotel, is a residential condominium as defined by Section 718.103(23), Florida Statutes.

A copy of the Petition for Declaratory Statement may be obtained by contacting: Robin McDaniel, Division Clerk, at Department of Business and Professional Regulation, Division of Florida Condominiums, Timeshares, and Mobile Homes, 1940 North Monroe Street, Tallahassee, Florida 32399-2217, (850)717-1424, robin.mcdaniel@myfloridalicense.com.

Please refer all comments to: Janis Sue Richardson, Chief Assistant General Counsel, Department of Business and Professional Regulation, Division of Florida Condominiums, Timeshares, and Mobile Homes, 1940 North Monroe Street, Tallahassee, Florida 32399-2202. Responses, motions to intervene, or requests for an agency hearing, §120.57(2), Fla. Stat., must be filed within 21 days of this notice.

Section VIII
Notices of Petitions and Dispositions
Regarding the Validity of Rules

Notice of Petition for Administrative Determination has been filed with the Division of Administrative Hearings on the following rules:

NONE

Notice of Disposition of Petition for Administrative Determination have been filed by the Division of Administrative Hearings on the following rules:

NONE

Section IX
Notices of Petitions and Dispositions
Regarding Non-rule Policy Challenges

NONE

**Section X
Announcements and Objection Reports of
the Joint Administrative Procedures
Committee**

NONE

**Section XI
Notices Regarding Bids, Proposals and
Purchasing**

NONE

**Section XII
Miscellaneous**

DEPARTMENT OF STATE

Division of Historical Resources

The Bureau of Historic Preservation of the Florida Department of State announces the availability of forms for application for designation as a 2013 Florida Main Street Community. A maximum of three communities will receive Florida Main Street Designation in 2013. Complete applications must be delivered to the Florida Main Street Program, R.A. Gray Building, 4th Floor, 500 South Bronough Street, Tallahassee, Florida 32399-0250, no later than 5:00 p.m. or postmarked and mailed or submitted (with evidence) to an express mail service

on or before 12:00 midnight July 27, 2013. Applications are available by contacting Alex Carlson, Florida Main Street Assistant, at the above address or by calling (800)847-7278.

**DEPARTMENT OF ENVIRONMENTAL PROTECTION
NOTICE OF AVAILABILITY OF RISK IMPACT
STATEMENT UNDER SECTION 120.81(6), FLORIDA
STATUTES**

RULE NO.: RULE TITLE:

62-302.530: Table: Surface Water Quality Criteria

In accordance with Section 120.81(6) of the Florida Statutes, the Florida Department of Environmental Protection (Department) announces the availability of a Risk Impact Statement associated with the Department's amendments to Chapter 62-302 (Rule 62-302.530) and Chapter 62-303 (Rules 62-303.380 and 62-303.480), F.A.C., to revise the Department's human health-based surface water quality criteria. A copy of the Risk Impact Statement may be obtained by contacting Kenneth Weaver, Florida Department of Environmental Protection, Division of Environmental Assessment and Restoration, MS 6511, 2600 Blair Stone Road, Tallahassee, Florida 32399, telephone (850)245-8414; or e-mail at Kenneth.Weaver@dep.state.fl.us.

**DEPARTMENT OF ENVIRONMENTAL PROTECTION
NOTICE OF AVAILABILITY OF RISK IMPACT
STATEMENT UNDER SECTION 120.81(6), FLORIDA
STATEMENTS**

RULE NO.: RULE TITLE:

62-303.380: Drinking Water Use Support and Protection of Human Health

62-303.480: Drinking Water Use Support and Protection of Human Health

In accordance with Section 120.81(6) of the Florida Statutes, the Florida Department of Environmental Protection (Department) announces the availability of a Risk Impact Statement associated with the Department's amendments to Chapter 62-302 (Rule 62-302.530) and Chapter 62-303 (Rules 62-303.380 and 62-303.480), F.A.C., to revise the Department's human health-based surface water quality criteria. A copy of the Risk Impact Statement may be obtained by contacting Kenneth Weaver, Florida Department of Environmental Protection, Division of Environmental Assessment and Restoration, MS 6511, 2600 Blair Stone Road, Tallahassee, Florida 32399; telephone (850)245-8414; or e-mail at Kenneth.Weaver@dep.state.fl.us.

Solicitation documents and detailed requirements will be available on the Tampa International Airport website at www.tampaairport.com, Airport Business, Active Solicitations on Wednesday, April 10, 2013 by 5:00 p.m.

HILLSBOROUGH COUNTY AVIATION AUTHORITY
HCAA ConRAC and APM – Design and Construction
HILLSBOROUGH COUNTY AVIATION AUTHORITY
(AUTHORITY)

Request for Qualifications

Solicitation Number 13-411-001

Project Numbers 1100 13, 1105 14 and 8700 14

Sealed qualifications for the Consolidated Rental Car Facility and Automated People Mover system will be received from design-build firms by the Authority at Tampa International Airport Offices located at 4160 George J. Bean Parkway, Suite 2400, Administrative Building, Second Level, Red Side, Tampa, Florida 33607.

Section XIII

Index to Rules Filed During Preceding Week

NOTE: The above section will be published on Tuesday beginning October 2, 2012, unless Monday is a holiday, then it will be published on Wednesday of that week.
