

# Rules of the South Florida Water Management District

## GENERAL AND PROCEDURAL (Formerly 16CA-1; 16K-1)

### CHAPTER 40E-1, F.A.C.



**Effective: October 23, 2012**

**October 23, 2012 Updates: (CUP Glitch Rule)**

Summary of Amendments to Rule Chapters: 40E-0, 40E-1, 40E-2, 40E-5, 40E-8, 40E-20, F.A.C. and sections 1.1, 1.3.1, 1.3.2.1, 1.6, 1.7, 1.7.2.2, 1.7.2.3, 1.7.3, 1.7.4, 1.8,2.1, 2.3.1, 2.5.3, 2.6.1, 3.2.1, 3.4, 3.11.1, 4.1 and 5.2 of the Water Use Permit Applications Basis of Review (BOR).

The District updated, corrected and modified its water supply related and water use rules to delete language regarding basin expiration dates, delete references to repealed rules and make other minor corrections. In addition, the District updated rules to be consistent with statutory amendments regarding the Governing Board's delegation authority, incorporation of forms and materials, submission of compliance reports every ten years, and changed "Xeriscape" to "Florida-Friendly Landscaping".

**CHAPTER 40E-1  
GENERAL AND PROCEDURAL (Formerly 16CA-1; 16K-1)**

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**40E-1.021 Definitions.**

When used in this Chapter, Chapters 40E-2, 40E-4, 40E-20, 40E-40, 40E-41, 40E-61, and 40E-400, F.A.C.:

(1) “e-Permitting website” means the District’s website address for e-Permitting at <http://www.sfwmd.gov/ePermitting>.

(2) “Electronic filing” means filing or submission of an Environmental Resource, Surface Water Management Permit or Consumptive Use Permit Application; Response to Request for Additional Information; or Request for Permit Transfer at the District’s e-Permitting website. Electronic filing is governed by the provisions of Chapter 668, F.S. If the applicant or sender of electronic data inhibits the ability of the District to store or print the electronic data, it shall not be considered filed with or received by the District. Filings received by the District after 5:00 p.m. shall be deemed filed on the next regular business day.

(3) “Electronic mail” means an electronic or computer file that is transmitted between two or more telecommunications devices; computers; computer networks, regardless of whether the network is a local, regional, or global network; or electronic devices capable of receiving electronic messages, regardless of whether the message is converted to hard copy format after receipt, viewed upon transmission, or stored for later retrieval. Electronic mail received after 5:00 p.m. shall be deemed received on the next regular business day.

(4) “Electronic record” means information that is stored in an electronic medium and is retrievable in a perceivable form, including public records as defined in Section 119.011, F.S.

(5) “Electronic signature” means an electronic sound, symbol, or process attached to an electronic record and executed or adopted by a person with the intent to sign the record.

*Rulemaking Authority 373.044, 373.113 FS. Law Implemented 668.003, 668.004, 668.50 FS. History—New 10-1-06, Amended 10-23-12.*

**40E-1.100 Uniform Rules of Procedure and Statement of District Organization and Operation.**

*Rulemaking Authority 120.54(5) FS. Law Implemented 120.54(5) FS. History—New 7-2-98, Repealed by Section 3, Chapter 2012-31, Laws of Florida, 5-27-12.*

**40E-1.106 Post-Employment Restrictions.**

(1) For a period of two years following separation of employment, or expiration of term of office, no former specified employee or official shall personally represent another person or entity for compensation before the District in connection with any matter where the person participated personally and substantially, within their last two years of employment or service on the board, and where the person has actual knowledge of the matter.

(2) Such representation is prohibited unless the Executive Director consents to such representation.

(3) This section shall apply to all specified employees hired after November 1, 1997; all employees promoted to a position which is included in the definition of specified employee after November 1, 1997; and all officials appointed after November 1, 1997.

(4) This section does not apply to former specified employees or officials working for another government agency.

(5) For the purposes of this rule, the following definitions shall apply:

(a) “Matter” shall include any judicial or other proceeding, application, request for ruling or other determination, contract, claim, controversy or investigation.

(b) “Official” shall mean any member of the Basin Board(s) or Governing Board of the South Florida Water Management District.

(c) “Represent” or “Representation” shall mean actual physical attendance on behalf of an individual or entity, for compensation, at a proceeding before the South Florida Water Management District or personal communications made with any officials, employees, or advisory board members of the South Florida Water Management District in their official capacity, on behalf of an individual or entity, including the filing of documents or the writing of letters on behalf of said individual or entity.

(d) “Specified employee” shall mean any management position within the Executive Council of the District.

*Rulemaking Authority 112.311, 112.313(13), 373.044 FS. Law Implemented 112.311, 112.313(13) FS. History—New 10-22-97.*

#### **40E-1.1065 Misuse of Public Position.**

*Rulemaking Authority 112.311, 112.313(6), 373.044 FS. Law Implemented 112.311, 112.313(6) FS. History—New 10-22-97, Repealed by Section 3, Chapter 2012-31, Laws of Florida, 5-27-12.*

#### **40E-1.125 Public Information and Inspection of Records.**

*Rulemaking Authority 119.01, 119.085, 120.53, 282.303(1), 286.011, 373.044, 373.113 FS. Law Implemented 119.01, 119.07, 119.021, 119.085, 120.53, 286.011, 373.044, 373.113 FS. History—New 9-3-81, Formerly 16K-1.16(4), (7), Amended 5-11-93, 9-19-95, Repealed by Section 3, Chapter 2012-31, Laws of Florida, 5-27-12.*

#### **40E-1.139 Complaints under the Americans with Disabilities Act.**

(1) It is the policy of the District to provide an equal opportunity for access to District services, programs, activities, and facilities which are held open to the public by handicapped and disabled persons in keeping with Title III of the Americans With Disabilities Act of 1990, 42 USC 12101, et seq., and the regulations which implement the Act, 28 CFR 35.

(2) Interested persons may obtain information concerning handicapped and disabled accessibility to the District’s services, activities, programs, and facilities which are held open to the public by contacting the facilities manager.

(3) Any affected person may file a complaint alleging discrimination on the basis of handicapped or disabled inaccessibility of District services programs, activities and facilities which are held open to the public.

(a) Complaints shall be filed with the facilities manager and shall specify to the best of the complainant’s knowledge, the location and nature of the conduct or circumstances complained of;

(b) The complaint must be signed by the complainant or authorized representative and contain an address or telephone number where the complainant can be reached;

(c) The District shall promptly investigate the complaint and may require the complainant to furnish any additional information reasonably necessary to aid investigating the complaint;

(d) The District shall promptly provide to the Complainant a written decision which documents why the decision is consistent with the provisions of the Americans With Disabilities

Act and the regulations which implement the Act.

(4) The complaint procedure established by this subsection is intended to provide a prompt informal method of dispute resolution. Failure to file a complaint pursuant to this subsection will not preclude an affected person from following other remedies which may be available under state and federal law. A District decision regarding a complaint shall not be considered an agency action pursuant to Chapter 120, F.S.

*Rulemaking Authority 120.53(1), 373.044, 373.113 FS., 28 CFR 35.106, 35.107 Law Implemented 120.53, 286.26, 373.083 FS. CFR 35.106, 35.107 FS. History—New 5-11-93.*

#### **40E-1.200 Procedures for Agendas and Scheduling of Meetings and Workshops.**

*Rulemaking Authority 120.54(5) FS. Law Implemented 120.54(5) FS. History—New 7-2-98, Repealed by Section 3, Chapter 2012-31, Laws of Florida, 5-27-12.*

#### **40E-1.208 Procedure for Abstaining from Voting Conflicts of Interest.**

*Rulemaking Authority 112.3143, 120.53(1), 373.044, 373.113 FS. Law Implemented 120.53, 373.079 FS. History—New 5-11-93, Repealed by Section 3, Chapter 2012-31, Laws of Florida, 5-27-12.*

#### **40E-1.300 Rulemaking Procedures.**

*Rulemaking Authority 120.54(5) FS. Law Implemented 120.54(5) FS. History—New 7-2-98, Repealed by Section 3, Chapter 2012-31, Laws of Florida, 5-27-12.*

#### **40E-1.400 Procedures Regarding Declaratory Statements.**

*Rulemaking Authority 120.54(5) FS. Law Implemented 120.54(5) FS. History—New 7-2-98, Repealed by Section 3, Chapter 2012-31, Laws of Florida, 5-27-12.*

#### **40E-1.500 Procedures for Proceedings which Determine Substantial Interests and Associated Mediation.**

*Rulemaking Authority 120.54(5) FS. Law Implemented 120.54(5) FS. History—New 7-2-98, Repealed by Section 3, Chapter 2012-31, Laws of Florida, 5-27-12.*

#### **40E-1.5095 Publication of Notice of Agency Decision or Intended Agency Decision.**

*Rulemaking Authority 120.54(5), 373.044, 373.113, 668.003, 668.004, 668.50 FS. Law Implemented 120.54(5), 120.569, 120.57, 373.146, 373.413, 668.003, 668.004, 668.50 FS. History—New 7-2-98, Amended 6-12-00, 10-1-06, Repealed 12-1-11.*

#### **40E-1.511 Point of Entry Into Proceedings.**

*Rulemaking Authority 120.54(5), 373.044, 373.113, 668.003, 668.004, 668.50 FS. Law Implemented 120.54(5), 120.569, 120.57, 120.60, 373.146, 373.413, 373.427, 668.003, 668.004, 668.50 FS. History—New 9-3-81, Amended 7-26-87, 5-11-93, 10-3-95, 7-2-98, 6-12-00, 10-1-06, Repealed by Section 3, Chapter 2012-31, Laws of Florida, 5-27-12.*

#### **40E-1.520 Procedures Concerning Formal Proceedings.**

*Rulemaking Authority 120.54(5) FS. Law Implemented 120.54(5) FS. History—New 7-2-98,*

*Repealed by Section 3, Chapter 2012-31, Laws of Florida, 5-27-12.*

**40E-1.521 Initiation of Formal Proceedings.**

*Rulemaking Authority 120.53, 373.044, 373.113 FS. Law Implemented 120.53(1), 120.57, 373.113 FS. History—New 9-3-81, Formerly 16K-1.09(1), 16K-1.112(1)-(3), 16K-1.12, Amended 5-11-93, 7-2-98, 6-12-00, Repealed by Section 3, Chapter 2012-31, Laws of Florida, 5-27-12.*

**40E-1.564 Exceptions to Recommended Order.**

*Rulemaking Authority 120.53, 373.044, 373.113 FS. Law Implemented 120.53(1), 120.57, 373.113 FS. History—New 9-3-81, Formerly 16K-1.11(10), Amended 5-11-93, 7-2-98, 6-12-00, Repealed by Section 3, Chapter 2012-31, Laws of Florida, 5-27-12.*

**40E-1.570 Procedures Concerning Informal Proceedings.**

*Rulemaking Authority 120.54(5) FS. Law Implemented 120.54(5) FS. History—New 7-2-98, Repealed by Section 3, Chapter 2012-31, Laws of Florida, 5-27-12.*

**40E-1.601 General.**

*Rulemaking Authority 120.53, 373.044, 373.113 FS. Law Implemented 120.53(1), 120.57, 120.60, 373.085, 373.116, 373.119, 373.175, 373.229, 373.239, 373.243, 373.246, 373.413, 373.416, 373.429, 373.433, 373.436, 373.439 FS. History—New 9-3-81, Amended 5-11-93, 7-2-98, Repealed by Section 3, Chapter 2012-31, Laws of Florida, 5-27-12.*

**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) A water use individual or general permit pursuant to Chapter 40E-2 or 40E-20, F.A.C., must be obtained prior to use or withdrawal of water or dewatering activities;

(2) A water well construction permit pursuant to Chapter 40E-3, F.A.C., must be obtained prior to the construction, repair or abandonment of any well within the District;

(3) A water well contractor's license, pursuant to Chapter 40E-3, F.A.C., must be obtained by contractors engaged in the business of construction, repair, or abandonment of water wells.

(4) An individual or general environmental resource permit pursuant to Chapter 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 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 Chapter 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) An artificial recharge permit pursuant to Chapter 40E-5, F.A.C., must be obtained prior to construction of any project involving artificial recharge or the intentional introduction of water into any underground formation;

(8) A Works or Lands of the District permit pursuant to Chapter 40E-6, F.A.C., must be obtained prior to connecting with, placing structures in or across, discharging into or making use of works of the District and any additional lands or real property interests owned by the District.

(9) A Use of Works of the District within the Lake Okeechobee Basin General or Individual Permit must be obtained pursuant to Chapter 40E-61, F.A.C., by any owner of a parcel of land within the Lake Okeechobee Basin.

(10) An Occupancy or Use of the C-18 Right of Way general or individual permit pursuant to Chapter 40E-62, F.A.C., 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.

(11) A Use of Works of the District within the Everglades general, individual or master permit pursuant to Chapter 40E-63, F.A.C., must be obtained by any owner of a parcel of land in the Everglades Agricultural Area.

*Rulemaking Authority 373.044, 373.113, 373.4135 FS. Law Implemented 120.53(1), 120.57, 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.*

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

(1) 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) Within 30 days of receipt of an application or notice of intent, the District shall review the application to determine whether all information needed to evaluate the application has been submitted. The District shall notify the applicant of the date on which the application is declared complete.

(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) The District may request information needed to clarify any additional information submitted by the applicant, or to answer new questions raised by or related to the additional information within 30 days of its receipt. The applicant shall have 30 days from receipt of such a request in which to provide the necessary information. If the application is still incomplete after such information is submitted, the District shall notify the applicant within 30 days. The applicant shall have an additional 30 days to complete the application.

(d) Failure of an applicant to provide the timely requested information within these

timeframes shall be considered grounds for denial of the application. Denial of an application for lack of completeness is without prejudice to the applicant's right to file a new application on the same subject matter. The District shall grant an extension upon a showing of a good faith effort by the applicant to comply with the timelines set forth herein. Unless an extension of time has been granted by the District, any application which remains incomplete 240 days after the original submittal date of an individual permit application or 90 days after the original submittal date of a notice of intent for general permit, shall be denied without prejudice.

(e) If the applicant submits information, either in response to or independent of a request by the District, which incorporates or results in a substantial modification in the proposed activity for which the applicant seeks a permit, the application will be considered an amended application. For purposes of this subsection, the term "substantial modification" shall mean a modification reasonably expected to result in water resource or environmental impacts which differ from those expected from the original application and require detailed review. Review timelines of the permit application or notice of intent will be reinitiated under this section.

(2) Upon a determination by the District that the activity requested in the notice of intent for any general permit requires an individual permit, the notice of intent shall be processed as an application for an individual permit, unless the permit applicant withdraws the application. If the application is processed as an individual permit, the permit applicant will be required to submit payment equal to the difference between the applicable fee for the individual permit and the fee previously submitted.

(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) An authorization to proceed for standard general water use permits in Chapter 40E-20, F.A.C., shall occur within 60 days of receipt of a complete notice of intent, including receipt of all requested information and correction of any error or omission of which the applicant was timely notified.

(c) 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 120.53(1), 373.044, 373.113 FS. Law Implemented 120.60, 373.107, 373.109, 373.116, 373.229, 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.*

**40E-1.604 Bond.**

(1) The Board may require the applicant for a permit to furnish a bond made payable to the District and its successors, with a reputable bonding corporation authorized to do business in this State as surety, conditioned upon full compliance with terms of the permit, including the proper construction, operation, and maintenance of the facility. The amount of the bond shall be determined by the Board.

(2) The Board may require liability insurance in such amount as the Board may determine endorsed in favor of the District or a hold harmless agreement satisfactory to the Board, in lieu of a bond under subsection (1).

(3) The Board may require that the bond or liability insurance be maintained as a condition of the continued validity of the permit.

*Rulemaking Authority 373.044, 373.113 FS. Law Implemented 373.085, 373.103, 373.219, 373.413, 373.416 FS. History—New 9-3-81, Formerly 16K-1.061.*

**40E-1.6058 Publication and Requests for Notification of Permit Applications or Notices of Intent.**

(1) Notice of Receipt of Permit Application or Notice of Intent. Persons who wish to be notified in writing or by electronic mail of any permit application or notice of intent which affects a designated geographic area shall notify the District in writing or by electronic mail, and shall specify their area of interest by county. Requests must be renewed every 6 months. The District shall provide notice in writing or by electronic mail of receipt of application or notice of intent to all persons who have filed in the preceding 6 months a written or electronic request for notification of any application or notice of intent affecting the designated geographic area in which the proposed activity is to occur.

(2) Publication of Notice of Receipt of Permit Application or Notice of Intent.

(a) Within 45 days of receipt of an individual permit application, the District shall publish notice thereof in a newspaper having general circulation as defined in Chapter 50, F.S., in the county in which the activity will occur.

(b) Within 14 days of filing notice of intent to use a general permit or application for a standard permit, persons qualifying for the use thereof are not required to, but may publish notice of such filing in a newspaper of general circulation, as defined in Chapter 50, F.S., in the area affected by the proposed project. Proof of publication shall be submitted to the District within 14 days of publication.

(c) Published Notice of Use for No Notice General Permits. Publication of notice of use of general permits for which no notice is required to be filed with the District may occur if desired by the permittee. The published notice must be published in a newspaper of general circulation, as defined in Chapter 50, F.S., in the area affected by the proposed project within 7 days of commencing work. If published, proof of publication must be submitted to the district within 14 days of publication.

(3) Interested persons shall have the opportunity to inspect a copy of the permit application at the appropriate District Service Center and submit written comments, which shall be considered by the District if received before the District issues proposed agency action concerning the application. Where appropriate, the District shall request that persons submitting comments furnish additional information reasonably necessary to ascertain the nature of the comments.

(4) Persons who wish to be advised of the proposed agency action regarding a particular permit application shall file a written or electronic request for further notice within 14 days of

receipt of the notice of application.

(5) The governing board may charge a subscription fee for information requested in accordance with this section to any person who has filed a written or electronic request for notification of any pending applications, pursuant to Rule 40E-1.125, F.A.C.

*Rulemaking Authority 373.044, 373.113, 668.003, 668.004, 668.50 FS. Law Implemented 120.53(1), 120.60(3), 668.003, 668.004, 668.50 FS. History—New 10-3-95, Amended 7-2-98, 6-12-00, 10-1-06, 12-15-11.*

#### **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) 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 90 days after the application for a conceptual approval, individual environmental resource permit, or 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) Because the District may take a final agency action which materially differs from the noticed intended agency action, applicants and other interested persons should be prepared to defend their position regarding the permit application when it is considered by the District. If the District takes final agency action which materially differs from the intended agency decision, the District shall mail by regular United States mail or electronic mail a notice of the final agency action to all persons who were notified of the intended agency decision.

*Rulemaking Authority 120.53(1), 373.044, 373.113 FS. Law Implemented 120.60, 373.079, 373.083, 373.107, 373.109, 373.116, 668.003, 668.004, 668.50 FS. History—New 7-2-98, Amended 6-12-00, 10-1-06, 10-23-12.*

#### **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) Water Use Permit Application processing fees are in the following table:

TABLE 40E-1.607(1)  
PERMIT APPLICATION PROCESSING FEES FOR  
WATER USE PERMIT APPLICATIONS  
REVIEWED PURSUANT TO CHAPTERS 40E-2 AND 40E-20, F.A.C.

Fee amounts shall apply to applications for new permits, permit modifications, and permit renewals, except as noted.

Category	Amount
Individual Public Water Supply with a duration less than 20 years Maximum monthly allocation	
Greater than 15 million gallons per month (mgm) through 30 mgm	\$2,700
Greater than 30 mgm through 300 mgm	\$5,500
Greater than 300 mgm	\$7,000
Individual Public Water Supply with a duration of 20 years Maximum monthly allocation	
Greater than 15 million gallons per month (mgm) through 30 mgm	\$4,200
Greater than 30 mgm through 300 mgm	\$8,500
Greater than 300 mgm	\$11,500
Individual Irrigation with a duration less than 20 years	\$1,000
Individual Irrigation with a duration of 20 years Maximum monthly allocation	
Greater than 15 mgm through 30 mgm	\$1,600
Greater than 30 mgm through 300 mgm	\$3,400
Greater than 300 mgm	\$5,600
Individual Mining (Dewatering) Maximum monthly allocation	
Greater than 15 mgm through 30 mgm	\$1,800
Greater than 30 mgm through 300 mgm	\$3,250
Greater than 300 mgm	\$4,000
Individual Industrial with a duration less than 20 years Maximum monthly allocation	
Greater than 15 mgm through 30 mgm	\$1,400
Greater than 30 mgm through 300 mgm	\$2,750
Greater than 300 mgm	\$3,500
Individual Industrial with a duration of 20 years Maximum monthly allocation	
Greater than 15 mgm through 30 mgm	\$2,000
Greater than 30 mgm through 300 mgm	\$3,650
Greater than 300 mgm	\$5,600
Individual Diversion and Impoundment with a duration less than 20 years Maximum monthly allocation	
Greater than 15 mgm through 30 mgm	\$1,400
Greater than 30 mgm through 300 mgm	\$2,750

Greater than 300 mgm	\$3,500
Individual Diversion and Impoundment with a duration of 20 years	
Maximum monthly allocation	
Greater than 15 mgm through 30 mgm	\$2,000
Greater than 30 mgm through 300 mgm	\$3,950
Greater than 300 mgm	\$6,200
Independent Secondary User of a Diversion and Impoundment with a duration of 20 years	
Maximum monthly allocation	
Greater than 15 mgm through 30 mgm	\$1,000
Greater than 30 mgm through 300 mgm	\$2,000
Greater than 300 mgm	\$3,200
General Standard Water Use Permit	
Maximum monthly allocation through Aquifer Storage and Recovery	
Less than 3 million gallons per month (mgm) (Minor)	\$350
Greater than 3 mgm through 15 mgm (Major)	\$1,000
Short-term Dewatering	\$500
Aquifer Storage and Recovery: (cost added to the applicable use type listed above)	\$1,000
Permit Transfer to Another Entity Pursuant to Rules 40E-0.107 and 40E-2.351, F.A.C.	\$300
Letter Modification to Individual Permit	no fee
Letter Modification to General Permit	no fee

(2) Water Well Construction Permit Application processing fees are in the following table:

TABLE 40E-1.607(2)

PERMIT APPLICATION PROCESSING FEES FOR  
WATER WELL CONSTRUCTION PERMIT APPLICATIONS  
REVIEWED PURSUANT TO CHAPTER 40E-3, F.A.C.

Category	Amount
Water Well Construction	\$100
Water Well Abandonment	no fee

(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 40E-4, 40E-40, AND 40E-400, F.A.C.

Fee amounts shall apply to applications for conceptual and construction, or conceptual, or construction, except as noted.

Category	Amount
New Individual Permit	
Project area less than 100 acres	
Agriculture	\$4,029
All others, including Mitigation Banks	\$7,500
Project area 100 acres to less than 640 acres	
Agriculture	\$5,284
All others, including Mitigation Banks	\$13,125

Project area 640 acres or more	
Agriculture	\$6,605
All others, including Mitigation Banks	\$25,000
Individual Permit Modification	
Project area less than 100 acres	
Agriculture	\$2,708
All others, including Mitigation Banks	\$5,000
Project area 100 acres to less than 640 acres	
Agriculture	\$3,303
All others, including Mitigation Banks	\$10,000
Project area 640 acres or more	
Agriculture	\$4,624
All others, including Mitigation Banks	\$15,000
New Standard Permit (excluding incidental site activities pursuant to Rule 40E-40.042, F.A.C.)	
Agriculture	\$859
All others	\$3,500
Standard Permit Modification including	
Application for phase construction under a	
Conceptual Approval	
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	\$1,500
Noticed General Permit pursuant to Chapter 40E-400, F.A.C., including aquaculture	\$250
Single family residential homesite consisting of 10 acres or less in total land area	\$100
Standard Permit for incidental site activities pursuant	
to Rule 40E-40.042, F.A.C. (Early Work)	\$1,000
Transfer of permit (including Mitigation Bank) to another entity	
pursuant to Rules 40E-1.6107 and 40E-4.351, F.A.C.	\$675
Variance associated with an environmental resource permit application	
From paragraph 40E-4.301(1)(e), F.A.C.	\$750
From other permitting standards, permit conditions, or water quality standards	\$1,500
New Individual Operation Permit	\$5,250
Letter Modification	\$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 \$500  
 or equal to 1 acre \$500

Permit Extensions

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.

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

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.

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.

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](http://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](http://www.bls.gov/opub/hom/pdf/homch17.pdf)).

(b) Permit application processing fees for projects grandfathered pursuant to Section 373.414, F.S., wetland resource (dredge and fill) are in the following table:

TABLE 40E-1.607(3)(b)

PERMIT APPLICATION PROCESSING FEES FOR  
 PROJECTS GRANDFATHERED PURSUANT TO SECTION 373.414, F.S.  
 WETLAND RESOURCE (DREDGE AND FILL) PERMIT APPLICATIONS  
 REVIEWED PURSUANT TO CHAPTERS 40E-4, 40E-40, AND 40E-400, F.A.C.

Category	Amount
Construction projects up to and including 5 years	
Standard form projects including dredge and fill activities that affect 10 or more acres of jurisdictional area, pursuant to subsection 62-312.070(2), F.A.C. (1993)	\$7,500
Short form construction projects including dredging and filling activities that affect less than 10 acres of jurisdictional area, pursuant to subsection 62-312.070(2), F.A.C. (1993)	\$750
Variance associated with a wetland resource permit application	
From the prohibition of subsection 62-312.080(7), F.A.C.	\$132
From other permitting standards, permit conditions, or water quality standards	\$661

General Permits	\$132
Minor modifications of permits that do not require substantial technical evaluation by the District, in conformance with subsections 62-4.050(6) and (7), F.A.C. (1993), do not require a new site inspection by the District, and will not lead to substantially different environmental impacts or will lessen the impacts of the original permit:	\$66
Transfer of permits or time extensions	
Minor technical changes	
Existing permit fee is less than \$300, except for modification to permits issued pursuant to Section 403.816, F.S.	\$66
Existing permit fee is equal to or more than 300	\$330

1. For the purposes of determining the fee for wetland resource management permits, the term of duration for the permit shall be reduced by the period of time (in yearly increments) during which no dredging or filling activity occurs or no reclamation, restoration, or mitigation occurs and only minor monitoring and maintenance activities are required. The fee for the full term shall be submitted with the application. After the District determines the period of time that the term of the permit can be reduced, the excess fee shall be returned.

2. For permit applications which involve a combination of the project fee categories listed above, the highest fee that applies to the appropriate standard form or short form project, pursuant to Rule 62-312.070, F.A.C., shall be charged.

3. A single additional fee of \$500 shall be required for projects in which monitoring and evaluation to determine the success of the mitigation will be required beyond the period of time to which the permit fee will ordinarily apply. If it is determined at the time of the permit application that monitoring and evaluation to determine the success of the mitigation will be required beyond the time period to which the permit fee will ordinarily apply, then this single additional fee shall be due when it is determined that this monitoring and evaluation is required.

(4) Application for proprietary authorization under Chapters 253 and 258, F.S., except consent of use authorizations, processing fees are in the following table:

TABLE 40E-1.607(4)  
 PERMIT APPLICATION PROCESSING FEES FOR  
 PROPRIETARY AUTHORIZATIONS UNDER  
 CHAPTERS 253 AND 258, F.S.,  
 EXCEPT CONSENT OF USE AUTHORIZATIONS

See Chapter 18-21, F.A.C. for application fees for proprietary authorizations, specifically as follows:

18-21.008(1)(a)8.	Applications for Lease (eff. 8-10-05)
18-21.0081(1)(k)	Grandfather Structure Applications (eff. 8-10-05)
18-21.009(1)(g)	Applications for Public Easement (eff. 8-10-05)
18-21.010(1)(i)	Applications for Private Easement (eff. 8-10-05)
18-21.013(1)(l)	Applications to Purchase Lands Riparian to Uplands (eff. 3-27-82)
18-21.019(7)	Applications for Disclaimers, Quitclaim Deeds or Certificates to Clear Title to Filled Sovereignty Lands and for Disclaimers for Lands Lost Due to Avulsion or to Reclaim Lands Lost due to Artificial Erosion or Artificial Erosion and Avulsion (eff. 4-13-98)

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

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.

Category	Amount
Property less than or equal to 10 acres	\$500
Property greater than 10 acres but less than or equal to 100 acres	\$1,500
Property greater than 100 acres but less than or equal to 320 acres	\$3,500
Property greater than 320 acres	\$5,000
Renewal	\$350

(6) Permit Processing Fee Waiver for Certain Local Governments.

Notwithstanding the provisions set forth above in this rule, the District shall waive permit processing fees for permit applications submitted by the governing body of a county with a population of less than 50,000, a municipality with a population of less than 25,000, a county or municipality not included within a metropolitan statistical area, or a third party under contract with such a county or municipality, provided:

- (a) The project for which the fee waiver is sought serves a public purpose; and
- (b) The governing body submits Form No. 889 certifying that the fee reduction is necessary due to an environmental need for a particular project or activity; or
- (c) The governing body submits Certification of Waiver of Permit Application Processing Fee, Form No. 0889, certifying that the permit processing fee is a fiscal hardship due to one of the following factors:
  1. Per capita taxable value is less than the statewide average for the current fiscal year;
  2. Percentage of assessed property value that is exempt from ad valorem taxation is higher than the statewide average for the current fiscal year;
  3. Any condition specified in Section 218.503, F.S., that determines a state of financial emergency;
  4. Ad valorem operating millage rate for the current year is greater than 8 mills; or
  5. A financial condition is documented in annual statements at the end of the current fiscal year which indicates an inability to pay the permit processing fee during that fiscal year.

Form 0889, December 2011, <http://www.flrules.org/Gateway/reference.asp?No=Ref-00061>, is incorporated by reference herein and 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.

(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 property ownership changes where no new works or modifications to an existing surface water management system is requested. | \$0 |
| (b) Permit transfer pursuant to Rules 40E-1.6107 and 40E-4.351, F.A.C.  | \$0 |

*Rulemaking Authority 373.044, 373.109, 373.113, 373.421(2), 373.421(6)(b) FS. Law*

*Implemented 218.075, 373.109, 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.*

#### **40E-1.608 Denial of Permits.**

*Rulemaking Authority 373.044, 373.113 FS. Law Implemented 120.53(1), 120.57, 120.60 FS. History—New 9-3-81, Amended 10-3-95, 7-2-98, 6-12-00, Repealed by Section 3, Chapter 2012-31, Laws of Florida, 5-27-12.*

#### **40E-1.609 Suspension, Revocation and Modification of Permits.**

(1) Procedures concerning the District's suspension, revocation and modification of a permit are contained in the Uniform Rules of Procedure, Rule 28-106.2015, F.A.C.

(2) The District may temporarily suspend or revoke a permit, in whole or in part, when it determines that the permittee or an agent of the permittee has:

(a) Submitted false or inaccurate information on an application or operational report;

(b) Violated Chapter 373, F.S., or portions of Chapter 403, F.S., for which authority has been delegated to the District, and the rules promulgated thereunder, or any other provision of Florida law related to the operations or regulations of the District;

(c) Failed to comply with an Administrative Order issued pursuant to Section 373.119, F.S.;

(d) Violated a condition of the permit;

(e) Failed to permit inspection of the subject property.

(3) The District may revoke a permit or modify its terms and conditions when it determines that such action is necessary to protect the public health, safety and welfare, prevent a public or private nuisance, or when the continued utilization of the permit becomes inconsistent with the objectives of the District. In such instances, due consideration shall be given to the extent to which the permittee has detrimentally relied upon the permit.

(4) The provisions of subsections (1) and (2) shall not preclude the District from exercising other enforcement remedies pursuant to Chapters 120, 373 and 403, F.S., when it determines such action is necessary and appropriate either in addition to or instead of suspension or revocation described above.

*Rulemaking Authority 120.53, 373.044, 373.113, 373.119, 373.129, 373.136 FS. Law Implemented 120.53(1)(b), (c), 120.60(2), 373.119, 373.239, 373.243, 373.429 FS. History—New 9-3-81, Amended 5-11-93, 10-3-95, 7-2-98, 6-12-00.*

#### **40E-1.610 Permit Renewal.**

(1) Holders of renewable permits shall make timely application as required by Rule 40E-1.603, F.A.C., for renewal so as to avoid expiration during the renewal process. When timely application is made, the existing permit shall not expire until final agency action, or if the permit is denied or the terms limited, until the last day for seeking review of the District order or a later date fixed by order of the reviewing court.

(2) Application for a permit renewal is timely only if actually filed at the District prior to expiration of the existing permit. Mailing the application does not constitute filing.

*Rulemaking Authority 120.53(1), 373.044, 373.113 FS. Law Implemented 120.60, 373.219, 373.239, 373.323, 373.413 FS. History—New 5-11-93, Amended 6-12-00.*

**40E-1.6105 Notification of Transfer of Interest in Real Property.**

Within 30 days of any transfer of interest or control of the real property at which any permitted facility, system, consumptive use, or activity is located, the permittee must notify the District, in writing or electronically at the District's e-Permitting website, of the transfer giving the name and address of the new owner or person in control and providing a copy of the instrument effectuating the transfer. Notification of a transfer shall not constitute a permit transfer pursuant to Rule 40E-1.6107, F.A.C.

*Rulemaking Authority 373.044, 373.113, 668.003, 668.004, 668.50 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 10-1-06.*

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

(1) To transfer an environmental resource, surface water management, water use permit, or wetland resource permit, the permittee, in addition to satisfying the applicable provisions in Rules 40E-2.351, 40E-4.351, 40E-20.351, and 40E-40.351, F.A.C., must submit Form No. 0483, 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 No. 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) In addition, the permittee must provide information required in Rule 40E-1.6105, F.A.C., and file a statement from the proposed transferee in writing or at the District's e-Permitting website that it has reviewed the District permit and project design and will be bound by all terms and conditions of the permit, including all compliance requirements, for the duration of the permit.

(3) The District shall approve the transfer of a permit unless it determines that the proposed transferee cannot provide reasonable assurances that conditions of the permit will be met. The determination shall be limited solely to the ability of the new permittee to comply with the conditions of the existing permit, and it shall not concern the adequacy of those permit conditions.

(4) The District shall approve the transfer of the permit if the requirements in subsections (1) and (2) are met. If the District proposes to deny the transfer, it shall provide both the permittee and the proposed transferee a written objection to such transfer together with the notice of right to request a Chapter 120, F.S., proceeding on such determination.

(5) Until transfer is approved by the District, the permittee shall be liable for compliance with the permit. The permittee transferring the permit shall remain liable for any corrective actions that are required as a result of any violations of the permit which occurred prior to the transfer of the permit.

*Rulemaking Authority 120.53(1), 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.*

**40E-1.611 Emergency Action.**

*Rulemaking Authority 120.54(5), 373.439 FS. Law Implemented 120.54(5), 373.439 FS. History—*

*New 9-3-81, Amended 7-2-98, Repealed by Section 3, Chapter 2012-31, Laws of Florida, 5-27-12.*

**40E-1.6115 Emergency Authorization.**

*Rulemaking Authority 120.54(5), 373.439 FS. Law Implemented 120.54(5), 373.439 FS. History—New 7-2-98, Amended 6-12-00, Repealed by Section 3, Chapter 2012-31, Laws of Florida, 5-27-12.*

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

(1) This rule applies to applications for environmental resource, surface water management, and water use permits for projects located in the Florida Keys Area of Critical State Concern when the applicant has elected coordinated agency review under Section 380.051, F.S.

(2) The following coordinated agency review procedures apply to projects which are eligible for exemptions from District environmental resource and water use permitting requirements:

(a) No permit and no coordinated agency review participation by the District is required for the water uses exempted by Rule 40E-2.051 (Exemptions), F.A.C.

(b) No permit and no coordinated agency review participation by the District is required for surface water management activities which are exempted by Rule 40E-4.051 (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) 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 40E-4.101 (Content of Application), F.A.C.

(b) The District's Coordinated Review process begins when the District receives the Coordinated Review Application from the Permit Coordinator as required by subsection 9J-19.006(3) (Initiation of Coordinated Review), F.A.C.

(c) The District's Coordinated Review process follows the permit review procedures set forth in Rule 40E-1.603, F.A.C. (Application Procedures for Processing Permit Applications or Notices of Intent).

(d) If the applicant waives the time limits required by Chapter 120 and Section 380.051, F.S., as set forth in Rule 9J-19.007, F.A.C., the District shall delay initiation of substantive review until notice is received by electronic mail at the District's e-Permitting website or in writing from the Permit Coordinator indicating that substantive review should begin, as provided in subsection 9J-19.007(3) (Coordination of Time for Sufficiency Review), F.A.C. If the applicant does not waive the time limits, the District shall begin substantive review when the Coordinated Review Application is complete.

(e) The Certification of the Coordinated Review Application required by Section 380.051(2)(a), F.S., and subsections 9J-19.002(3) (Purpose) and 9J-19.009(1) and (2) (Completion of Substantive Review), F.A.C., shall occur within 60 days after the District begins substantive review, and shall consist of the notice of proposed agency action together with the staff report on the individual permit pursuant to subsection 40E-1.603(6) (Application Procedures for Processing Permit Applications or Notices of Intent), F.A.C., which may recommend denial to the Governing Board, or approval, or approval with conditions to its

designee.

(f) Certification concludes the coordinated agency review process. However, the applicant may complete the permit process as set forth in subsections 40E-1.603(6)-(11), F.A.C., which results in the Governing Board's denial, or approval, or approval with conditions to its designee.

*Rulemaking Authority 373.044, 373.113, 380.051 FS. Law Implemented 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.*

#### **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 copies 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, 1(800) 432-2045, ext. 6436, or (561) 682-6436:

<b>Form No.</b>	<b>Date</b>	<b>Title</b>
0186	09-12	State of Florida Water Well Contractor's Application, incorporated by reference in subsection 40E-3.038(3), F.A.C.
0188-QMQ	10-12	Quarterly Report of Withdrawals, incorporated by reference in subsection 40E-2.091(1), F.A.C.
0188-QASR	10-12	Quarterly Report of Injections and Withdrawals for Aquifer Storage and Recovery (ASR) Wells, incorporated by reference in subsection 40E-2.091(2), F.A.C.
0188-QMON	10-12	Quarterly Report of Monitoring Requirements, incorporated by reference in subsection 40E-2.091(5), F.A.C.
0188-QMQF	10-12	Quarterly Report of Withdrawals from Wells and Surface Water Pumps, incorporated by reference in subsection 40E-2.091(3), F.A.C.
0188-QCROP	10-12	Report of Planting and Harvest of Seasonal Crops, incorporated by reference in subsection 40E-2.091(6), F.A.C.
0188-QBWDR	10-12	Quarterly Report of Bulk Water Delivered and Received, incorporated by reference in subsection 40E-2.091(4), F.A.C.
0444	12-11	Application for a Standard Permit for Incidental Site Activities, incorporated by reference in subsection 40E-40.042(5), F.A.C.
0445	10-12	Mining/Dewatering Permit Application, incorporated by reference in subsection 40E-2.101(3), F.A.C.
0483	10-12	Request for Environmental Resource, Surface Water Management, Water Use or Wetland Resource Permit Transfer, incorporated by reference in subsection 40E-1.6107(1), F.A.C.
0645-W01	10-12	Water Use Permit Application Form, incorporated by reference in paragraph 40E-2.101(1)(a), F.A.C.
0645-G60	10-12	Table A Descriptions of Wells, incorporated by reference in paragraph 40E-2.101(1)(b), F.A.C.
0645-G61-1	10-12	Table B Description of Surface Water Pumps, incorporated by reference in paragraph 40E-2.101(1)(c), F.A.C.
0645-G61-2	10-12	Table C Description of Culverts, incorporated by reference in paragraph 40E-2.101(1)(d), F.A.C.
0645-G65	10-12	Table D Crop Information, incorporated by reference in paragraph 40E-2.101(1)(e), F.A.C.
0645-G74	10-12	Table E Water Received From or Distributed to Other Entities, incorporated by

Form No.	Date	Title
		reference in paragraph 40E-2.101(1)(f), F.A.C.
0645-G69	10-12	Table F Past Water Use & Table G Projected Water Use, incorporated by reference in paragraph 40E-2.101(1)(g), F.A.C.
0645-G70	10-12	Table H Projected Water Use (For Per Capita Greater than 200 GPD), incorporated by reference in paragraph 40E-2.101(1)(h), F.A.C.
0645-G71	10-12	Table I Water Treatment Method and Losses, incorporated by reference in paragraph 40E-2.101(1)(i), F.A.C.
0645-G72	10-12	Table J Aquifer Storage and Recovery, incorporated by reference in paragraph 40E-2.101(1)(j), F.A.C.
0645-G73	10-12	Table K Water Supply System Interconnections, incorporated by reference in paragraph 40E-2.101(1)(k), F.A.C.
0779	01-01	Application for a Works of the District Permit, incorporated by reference in subsection 40E-63.091(9), F.A.C.
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	12-11	Certification of Waiver of Permit Application Processing Fee, incorporated by reference in paragraph 40E-1.607(6)(b), F.A.C.
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

Form No.	Date	Title
		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	11-10	Application for a C-139 Basin Works of the District Permit, incorporated by reference in subsection 40E-63.430(2), F.A.C.
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)	10-10	State of Florida Permit Application to Construct, Repair, Modify or Abandon a Well, incorporated by reference in subsection 40E-3.101(1), F.A.C.
62-532.900(2)	10-10	State of Florida Well Completion Report, incorporated by reference in subsection 40E-3.411(1), F.A.C.

*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.*

**40E-1.702 Environmental Resource, Surface Water Management Permit and Consumptive Use Enforcement Guidelines.**

The District's Environmental Resource, Consumptive Use and Surface Water Management Permit enforcement program is implemented through guidelines concerning Resource Protection, Dispute Resolution and Penalty Assessments.

(1) The Resource Protection guideline provides that:

(a) Adverse impacts to water resources shall be recovered by requiring complete restoration;

or

(b) In those cases where restoration of the adverse impact is not environmentally feasible, the District shall require mitigation to offset such impacts.

(2) The Dispute Resolution guideline provides that:

(a) If the violation cannot be resolved in a negotiated, pro-active manner, it is the District's policy to seek full compliance with District permits and rules through appropriate legal action; and

(b) Violations can most effectively be prevented through educating the public about District permitting practices and criteria.

(3) The Penalty Assessment guideline provides that:

(a) The District shall provide for prompt resolution of enforcement matters in a manner that best protects the public interest and water resources; and

(b) The District shall ensure that violators do not gain an economic advantage over competitors by circumventing District permitting requirements. Enforcement action shall be designed to remove any economic advantage resulting from the failure to comply with District permits and rules.

*Rulemaking Authority 120.53(1), 373.044, 373.113 FS. Law Implemented 120.62, 120.69, 373.083(2), 373.119, 373.129, 373.136, 373.430, 373.433, 373.603 FS. History—New 10-3-95, Amended 7-2-98.*

**40E-1.711 Orders of Corrective Action and Consent Orders.**

(1) Orders of Corrective Action.

(a) An order of corrective action may accompany and be served with an administrative complaint upon an alleged violator pursuant to Rule 28-106.2015, F.A.C. An order of corrective action shall include a description of remedial action, with implementation timeframes, and shall, if applicable, set forth any damages, costs of investigation, or other demands that the District is authorized to recover pursuant to Chapter 373 or 403, F.S. Unless a responsive pleading and request for a Section 120.57, F.S., administrative hearing is filed within fourteen (14) days after service of the order of corrective action, the order for corrective action shall become final and effective, and shall constitute a final adjudication of the matters alleged, subject only to judicial review under Chapters 120 or 373, F.S.

(b) Orders of corrective action, which constitute final agency action, shall be enforceable pursuant to the enforcement provisions in Chapters 373 and 403, F.S.

(2) Consent Order.

(a) A consent order is final agency action wherein all parties and the District, by negotiation,

have arrived at a resolution of alleged violations of law for the purpose of achieving full and expeditious compliance with Chapters 373 and 403, F.S., and District rules promulgated thereunder. A consent order, executed by all parties to an enforcement action, shall have the same force and effect as a final order entered by the District after a formal Section 120.57, F.S., administrative hearing, and shall be enforced in like manner.

(b) The resolution of an enforcement action which requires only the payment of civil penalties and costs but no corrective action shall be memorialized by use of a letter agreement. Any other remedial action required, such as mitigation, restoration, or procurement of permits shall be implemented by use of a consent order.

(c) Upon execution by the Chair of the Governing Board, or a duly authorized designee, and filing by the District Clerk, a consent order shall constitute agency action subject to the provisions of Rule 40E-0.109, F.A.C.

(3) A non-exempt system which is constructed, operated, altered, maintained, removed or abandoned without a permit shall be restored to its pre-violation condition, unless a permit application for such activity is approved by the District.

*Rulemaking Authority 120.53, 373.044, 373.113 FS. Law Implemented 373.119, 373.129, 373.136, 373.430, 373.603 FS. History—New 5-11-93, Formerly 40E-1.614, Amended 10-3-95, 10-23-12.*

#### **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, and 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 40E-4, 40E-40, 40E-41, 40E-61, 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) The CPM is the initial basis for determining the appropriate amount for a particular penalty. The CPM reflects the District's statutory authority under Section 373.129, F.S., to seek civil penalties of up to \$10,000 per day, per violation. The CPM is comprised of two principle components:

(a) The actual or potential harm to the public and the environment that may occur as a result of the violation; and

(b) The extent of deviation from statutory or regulatory requirements.

(3) Because an economic advantage can be derived through avoidance of expenditures necessary to achieve compliance with District permitting rules and regulations, the District shall consider in its assessment of civil penalties any economic benefit which the violator may have gained through noncompliance.

(4) Multiple penalties shall be calculated for every violation which constitutes an independent and substantially distinguishable violation, or when the same person has violated the same requirement in substantially different locations.

(5) Multi-day penalties shall be calculated where daily advantage is being gained by the

violator for an ongoing violation, computed by multiplying the original assessment amount by the number of days of noncompliance.

*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.*

**40E-1.721 Complaints, District Investigations, Probable Cause Determinations and Notices of Violations.**

(1) Any person may file a written complaint with the District alleging that a person is in violation of any of the provisions of Chapter 373, F.S., or provisions of Chapter 403, F.S., for which authority has been delegated to the District, or the rules promulgated thereunder or an order issued pursuant thereto. Any person may file a written complaint alleging that a lawfully issued District permit is causing a public or private nuisance. District investigations and probable cause determinations preliminary to District action are not subject to the provisions of Section 120.57, F.S., or the rules in this part promulgated thereunder.

(2) The complaint shall specify to the best of complainant's knowledge the identity of the alleged violator, the location and nature of the alleged violation, and any additional information deemed relevant or material by the complainant. The complaint must be signed by the complainant or the complainant's agent and contain an address or phone number where the complainant can be reached. The District shall request that the complainant to furnish any additional information reasonably necessary to aid in investigating the complaint.

(3) Upon receipt of a complaint filed pursuant to this section, the District shall conduct an investigation and make a determination of probable cause. Nothing in this rule shall preclude the District from conducting investigations and probable cause determinations as otherwise authorized or required by law.

(4) An investigation or determination of probable cause is a non-adversary executive function to discover or procure evidence as part of the fact finding function of the District. The District need not have an administrative complaint pending to conduct an investigation or make such a determination.

(5) Upon receipt of a field inspection or investigation report and upon a finding of probable cause, District staff are authorized to issue a Notice of Violation providing instructions for compliance with Chapter 373, F.S., and all applicable District rules. Nothing in this rule shall preclude the District from seeking injunctive relief or filing any other action that is authorized by Chapter 373, F.S.

*Rulemaking Authority 120.53(1), 120.54(10), 373.044, 373.113 FS. Law Implemented 120.53(1), 120.57(4), 373.219(2), 373.229(2), 373.333(2), 373.429 FS. History—New 9-3-81, Formerly 16K-1.09, 16K-2.03(3), Amended 5-11-93, Formerly 40E-1.510, Amended 10-3-95.*