

Rules of the South Florida Water Management District

General Water Use Permits Chapter 40E-20, F.A.C



Effective: March 18, 2010

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40E-20.010 Review of General Water Use Permit Applications.

General Water Use permit applications are processed pursuant to the provisions of Section 120.60, F.S., Part VI of Chapters 40E-1, F.A.C., and Chapter 28-107, F.A.C.

Specific Authority 120.54(5), 120.60 FS. Law Implemented 120.54(5), 120.60 FS. History—New 7-2-98, Amended 8-14-02.

40E-20.011 Policy and Purpose.

(1) The rules in this chapter authorize issuance of general permits for water use for certain specified uses which have been determined by staff review to be reasonable-beneficial, not interfering with existing legal uses and consistent with the public interest pursuant to Section 373.223, F.S. The purpose of this chapter is to set forth the conditions for issuance for all general permits in Rule 40E-20.301, F.A.C., and establish requirements for the various types of general permits available under this chapter in Rule 40E-20.302, F.A.C. Persons conducting uses or withdrawals that are not exempt pursuant to Rule 40E-2.051, F.A.C., and do not qualify for a general water use permit under this chapter are required to obtain individual permits pursuant to Chapter 40E-2, F.A.C.

(2) District staff shall take agency action on applications submitted under this rule pursuant to Section 373.118, F.S., and this chapter. If an application for any proposed water use does not meet the provisions of this chapter, the District will provide the permit applicant with the option to either withdraw the general permit application, or supply the additional information and fee required for an individual permit. In the event one of these options is not selected, staff will recommend that the Governing Board deny the general permit application. Where applicable, criteria in the “Basis of Review for Water Use Permit Applications within the South Florida Water Management District,” incorporated by reference in Rule 40E-20.091, F.A.C., will be utilized to determine whether the conditions for issuance in Rule 40E-20.301, F.A.C., are satisfied.

Specific Authority 373.044, 373.083, 373.113, 373.118 FS. Law Implemented 373.042, 373.0421, 373.083, 373.103(4), 373.118, 373.219 FS. History—New 9-3-81, Formerly 16K-2.032(4), 16K-3.031(4), Amended 4-20-94, 7-11-96, 4-9-97, 12-10-97, 11-4-01, 8-

14-02, 8-31-03, 4-23-07, 2-13-08.

40E-20.061 Delegation of Authority Pertaining to General Water Use Permits.

The Governing Board delegates to the Executive Director the authority to issue general water use permits under this chapter pursuant to Section 373.118, F.S. The Executive Director hereby executes such delegated authority through the Director and supervisors of the Division that reviews water use permit applications.

Specific Authority 373.044, 373.113, 373.118 FS. Law Implemented 373.118 FS. History—New 8-14-02.

40E-20.091 Publications Incorporated by Reference.

The “Basis of Review for Water Use Permit Applications within the South Florida Water Management District – March 18, 2010,” is hereby published by reference and incorporated into this chapter. A current version of this document is available upon request.

Rulemaking Authority 373.044, 373.113, 373.118, 373.171 FS. Law Implemented 373.042, 373.0421, 373.103(4), 373.118, 373.171, 373.223, 373.229 FS. History—New 8-14-02, Amended 8-31-03, 4-23-07, 9-13-07, 2-13-08, 10-14-08, 7-2-09, 3-15-10, 3-18-10.

40E-20.101 Content of General Water Use Permit Applications.

(1) Except in those circumstances detailed in subsection (4) below, an application for a General Water Use permit shall be filed with the District prior to commencement of any use of water authorized in this chapter. The application for all General Water Use Permits shall contain:

(a) The appropriate permit application processing fee required by Rule 40E-1.607, F.A.C.;

(b) The information required in subsection 373.229(1), F.S.;

(c) Information sufficient to show the use meets the criteria and conditions established in Rules 40E-20.301 and 40E-20.302, F.A.C.; and

(d) Completed application forms, as specified below, signed by the applicant or the authorized agent of the applicant.

(2) Applicants for a Standard General Water Use Permit under subsection 40E-20.302(1), F.A.C., shall file the following parts of Form 0645 – Water Use Permit Applications, as incorporated by reference in Rule 40E-1.659, F.A.C.:

(a) Part RC-1A Administrative Information for Water Use Permit Applications, and

(b) Part RC-1W Application for a Water Use permit (all Standard General Water Use Permits) or Part RC-1G Application for a General Water Use Permit (Standard General Water Use Permits with recommended maximum allocations < 3 million gallons per month).

(3) Applicants for a Dewatering Water Use General Permit under subsection 40E-20.302(2), F.A.C., shall file Form 0445, Mining/Dewatering Permit Application (RC-1A, RC-1W, RC-1G), incorporated by reference in Rule 40E-1.659, F.A.C.

(4) Applicants are not required to file an application to qualify for a No-Notice Short-Term Dewatering Permit, if the conditions of Rule 40E-20.301 and subsection 40E-20.302(3), F.A.C., are satisfied.

Specific Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.103(1), 373.219, 373.223, 373.229 FS. History—New 8-14-02, Amended 8-31-03 (2), 8-31-03 (3).

40E-20.141 Request for Additional Information.

If the information provided in the General Water Use Permit application required by Rule 40E-20.101, F.A.C., is not sufficient to determine whether the use qualifies for a general water use permit or permit modification or meets the criteria and conditions in Rules 40E-20.301 and 40E-20.302, F.A.C., the District may request the applicant to submit additional information pursuant to Rule 40E-1.603, F.A.C.

Specific Authority 373.044, 373.113 FS. Law Implemented 120.60(2), 373.219 FS. History—New 9-3-81, Amended 4-20-94, 7-2-98, 8-14-02.

40E-20.301 Conditions for Issuance of General Water Use Permits.

(1) In order to receive a general permit, permit renewal, or permit modification under this chapter, an applicant must provide reasonable assurances that the proposed water use:

- (a) Will not cause harmful saline water intrusion;
- (b) Will not harm offsite land uses;
- (c) Will not cause harm to wetlands or other surface waters;
- (d) Will not cause pollution of the water resources;
- (e) Is otherwise a reasonable-beneficial use as defined in subsection 373.019(13), F.S., with consideration given to the factors set forth in subsection 62-40.401(2), F.A.C.
- (f) Will not interfere with presently existing legal uses;
- (g) Is in accordance with Section 373.2295, F.S., concerning interdistrict transfer of groundwater and Section 373.223(3), F.S., concerning water transport and use of groundwater or surface water across county boundaries.
- (h) For uses with a recommended maximum allocation which exceeds 3 million gallons per month, makes use of a reclaimed water source in accordance with the criteria contained in the “Basis of Review for Water Use Permit Applications within the South Florida Water Management District”, incorporated by reference in Rule 40E-20.091, F.A.C.
- (i) Is in accordance with the established minimum flows and levels and implementation provisions in Chapter 373, F.S., Chapters 40E-2 and 40E-8, F.A.C.; and
- (j) Is consistent with Sections 373.016, 373.1501, 373.1502 and 373.036, F.S., and otherwise is consistent with the public interest as prescribed by Chapter 373, F.S., and this chapter.
- (k) Will not withdraw water reserved under Chapter 40E-10, F.A.C.

(2) In order to satisfy the conditions for permit issuance in subsection (1), the permit applicant must provide reasonable assurances that the criteria in the “Basis of Review for Water Use Permit Applications within the South Florida Water Management District”, incorporated by reference in Rule 40E-20.091, F.A.C., are met.

Rulemaking Authority 373.044, 373.113, 373.118 FS. Law Implemented 373.036, 373.042, 373.103(4), 373.1501, 373.1502, 373.223, 373.229, 373.2295, 373.470 FS. History—New 8-14-02, Amended 8-31-03, 4-23-07, 2-13-08, 7-2-09.

40E-20.302 Types of General Water Use Permits.

(1) Standard General Water Use Permit – The use of water, which does not exceed a recommended maximum allocation of 15 million gallons per month (MGM), except as stated below, shall qualify for a Standard General Water Use Permit, provided the conditions for issuance in Rule 40E-20.301, F.A.C., are met. There are two types of Standard General Water Use Permits, as follows:

(a) Minor Standard General Water Use Permit, authorizes allocations of three (3) million gallons per month or less; and

(b) Major Standard General Water Use Permit, authorizes allocations greater than three (3) million and up to fifteen (15) million gallons per month, and includes a requirement under paragraph 40E-20.301(1)(h), F.A.C., and the applicable requirements in the “Basis of Review for Water Use Permit Applications within the South Florida Water Management District”, incorporated by reference in Rule 40E-20.091, F.A.C., that the permit applicant meet the requirements for use of reclaimed water. In addition the monitoring and reporting permit limiting conditions in Sections 4.0 and 5.0 of the “Basis of Review for Water Use Permit Applications within the South Florida Water Management District”, incorporated by reference in Rule 40E-20.091, F.A.C., are applicable.

(2) Dewatering General Water Use permit – The use of water in conjunction with short-term dewatering operations such as well pointing, utility construction, lake construction, exploratory testing, and other minor uses; or in conjunction with a short-term Remedial Action Plan approved by the state or local agency having legal jurisdiction over such activities, shall qualify for a Dewatering General Water Use Permit, provided the conditions for issuance in Rule 40E-20.301, F.A.C., and the following requirement is met:

The proposed dewatering operation will not exceed a maximum of ten million gallons per day, with a maximum of eighteen hundred (1800) million gallons total pumpage and will not exceed a total duration of one year for the entire project.

(3) No-Notice Short-Term Dewatering General Water Use Permit – The use of water in conjunction with short-term dewatering operations, such as well pointing, utility construction, lake construction, exploratory testing, and other minor uses; or aquifer performance tests; or in conjunction with a short-term Remedial Action Plan approved by the state or local agency having legal jurisdiction over such activities, shall qualify for a No-Notice Short-Term Dewatering General Water Use Permit, provided the conditions for issuance in Rule 40E-20.301, F.A.C., and the following requirement is met:

(a) The proposed dewatering operation will not exceed a maximum of five (5) million gallons per day, with a maximum of one hundred (100) million gallons total pumpage and will not exceed a total duration of 90 days for the entire project, except for linear construction projects, such as roads, utilities, and pipelines, which may have a rolling 90-day duration in which the dewatering operation at the end of each 90-day period occurs more than 1 mile from the location at the beginning of each 90-day period.

(b) To demonstrate compliance with paragraph 40E-20.301(1)(k), F.A.C., all water shall be retained on site.

Rulemaking Authority 373.044, 373.113, 373.118 FS. Law Implemented 373.042, 373.0421, 373.103(4), 373.118, 373.219, 373.223 FS. History—New 9-3-81, Amended 12-1-82, Formerly 16K-2.031(1), 16K-2.032(1)(b), Amended 2-24-85, 3-29-87, 7-26-87,

4-20-94, 7-11-96, 4-9-97, 12-10-97, 11-4-01, 8-14-02, 8-31-03, 4-23-07, 2-13-08, 7-2-09.

40E-20.321 Duration of General Water Use Permits.

(1) The duration of general water use permits shall equal the time period for which sufficient data is available to provide reasonable assurances that the conditions for permit issuance will be met, the time period for which the permit applicant demonstrates legal control, or the applicable general permit expiration date in subsections (2) through (5), whichever occurs first.

(2) The duration of the general water use permit authorized in subsection 40E-20.302(1), F.A.C., shall not exceed the following time periods:

(a) For uses with a maximum monthly allocation less than 3 million gallons per month (mgm), authorized by a Minor Standard General Water Use Permit, the period shall not exceed 20 years.

(b) For uses with a maximum monthly allocation greater than 3 mgm (up to 15 mgm), authorized by a Major Standard General Water Use Permit, the period shall not exceed the basin expiration date as specified in the document described in Rule 40E-20.091, F.A.C., as applicable to the location of the project; or, for Major Standard General Water Use Permits issued, renewed or modified after the applicable basin expiration date, the period shall be based on the provisions in Rule 40E-2.321, F.A.C., and the applicable provisions in the "Basis of Review for Water Use Permit Applications within the South Florida Water Management District", incorporated by reference in Rule 40E-20.091, F.A.C.

(3) The duration of the general permit authorized in subsection 40E-20.302(2), F.A.C., shall not exceed one (1) year from the date of issuance.

(4) The duration of the general permit authorized in subsection 40E-20.302(3), F.A.C., shall not exceed ninety (90) days after commencing dewatering.

(5) The duration of a general permit issued for a Remedial Action Plan approved by the state or local agency having legal jurisdiction over such activities will correspond with the termination of the water use activities under the plan or the applicable general permit expiration date, whichever occurs first.

(6) Extension of time shall be granted by the District under circumstances that could not be reasonably foreseen and that are outside the control of the permittee, as determined by District staff.

Specific Authority 373.044, 373.113, 373.118 FS. Law Implemented 373.118, 373.236 FS. History—New 9-3-81, Formerly 16K-2.031(2)(j), 16K-2.032(2)(d), Amended 7-26-87, 4-20-94, 8-14-02, 8-31-03, 4-23-07, 2-13-08.

40E-20.331 Modification of General Water Use Permits.

(1) A permittee shall apply to the District for approval of any modification of an unexpired general water use permit pursuant to Section 373.239, F.S., and Rule 40E-1.609, F.A.C.

(2) Applications for modification except for modifications issued pursuant to subsection (3) shall contain the information required in Rule 40E-20.101, F.A.C., will be evaluated using the conditions and requirements specified in Rules 40E-20.301 and 40E-20.302, F.A.C., and will be subject to the limiting conditions specified in Rule 40E-20.381, F.A.C. Modifications shall be approved if the conditions and requirements in

Rules 40E-20.301 and 40E-20.302, F.A.C., are met.

(3)(a) Modification of an existing general water use permit shall be approved by letter, provided the permit is in compliance with all applicable limiting conditions and the modification request:

1. Does not exceed the applicable general permit allocation limitations in Rule 40E-20.302, F.A.C.;

2. Does not result in a requested permit duration which exceeds the expiration date of the existing permit, except that when the permit duration is based upon the current lease expiration date, the permit duration may be extended by letter modification to the new lease date, but shall not exceed the applicable permit duration pursuant to subsection 40E-20.321(2), F.A.C.;

3. Does not potentially interfere with any presently existing legal use of water, cause harm to wetlands or other surface waters, harmful saltwater intrusion or pollution of the water resources, harm to offsite land uses, does not withdraw water reserved under Chapter 40E-10, F.A.C., or does not otherwise raise issues requiring a Staff determination of whether harm to the water resources would occur pursuant to the "Basis of Review for Water Use Permit Applications within the South Florida Water Management District", incorporated by reference in Rule 40E-20.091, F.A.C.;

4. Does not change the permitted withdrawal source; and

5. Does not result in a modification of the permit which must be approved by the Governing Board pursuant to Section 373.239(2), F.S..

6. Does not allow more cumulative days and time to conduct landscape irrigation pursuant to Chapter 40E-24, F.A.C., for those permits classified as landscape irrigation use.

(b) The time frames set forth in Rule 40E-1.603, F.A.C., shall apply to the processing of applications for letter modifications.

Rulemaking Authority 373.044, 373.113, 373.171, 373.216 FS. Law Implemented 373.223, 373.229, 373.239 FS. History—New 4-20-94, Amended 7-11-96, 4-9-97, 12-10-97, 8-14-02, 8-31-03, 4-23-07, 2-13-08, 7-2-09, 3-15-10.

40E-20.341 Revocation of General Water Use Permits.

Violations of this chapter may result in the revocation or suspension of the permit in whole or in part in accordance with the provisions of Sections 373.119 and 373.243, F.S., Chapter 120, F.S., and Rules 40E-1.609 and 28-107.004, F.A.C.

Specific Authority 373.044, 373.113 FS. Law Implemented 120.60(6), 373.103(4), 373.219, 373.229 FS. History—New 9-3-81, Formerly 16K-2.031(5), 16K-2.032(5), Amended 4-20-94, 7-2-98, 8-14-02.

40E-20.351 Transfer of General Water Use Permits.

A permittee must comply with the requirements of Rule 40E-1.6107, F.A.C., in order to obtain a permit transfer to a new permittee. If the permit transfer is in conjunction with an application for permit modification, the permit shall be transferred at the time of permit modification if all applicable permit transfer criteria are met.

Specific Authority 373.044, 373.113 FS. Law Implemented 373.223, 373.229, 373.239 FS. History—New 12-1-82, Amended 4-20-94, 8-14-02.

40E-20.381 Limiting Conditions.

Staff shall impose on any permit granted under this chapter such reasonable standard and special conditions as are necessary to assure that the permitted use or withdrawal will be consistent with the overall objectives of the District, will not be harmful to the water resources of the District, is reasonable-beneficial, will not interfere with any presently existing legal uses, and is consistent with the public interest. Standard permit conditions in Section 5.1 of the “Basis of Review for Water Use Permit Applications within the South Florida Water Management District” incorporated by reference in subsection 40E-20.091(1), F.A.C., shall be in the permit. Special permit conditions, including those specified in Section 5.2 of the “Basis of Review for Water Use Permit Applications within the South Florida Water Management District”, shall be in the permit. *Specific Authority 373.044, 373.113, 373.118 FS. Law Implemented 373.042, 373.0421, 373.103(4), 373.118, 373.219, 373.223 FS. History—New 9-3-81, Formerly 16K-2.031(2), 16K-2.032(2), Amended 2-24-85, 7-26-87, 4-20-94, 7-11-96, 4-9-97, 12-10-97, 11-4-01, 8-14-02, 4-23-07, 2-13-08.*

40E-20.391 Publication.

The publication of general permits shall comply with Rule 40E-1.6058, F.A.C.

Specific Authority 373.044, 373.113, 373.118 FS. Law Implemented 373.042, 373.0421, 373.103(4), 373.118, 373.219, 373.223 FS. History—New 8-14-02.