

**Rules of the  
South Florida Water Management District**

**ENVIRONMENTAL RESOURCE  
PERMITS**

**CHAPTER 40E-4, F.A.C.**



**Effective: August 10, 2014**

**CHAPTER 40E-4  
ENVIRONMENTAL RESOURCE PERMITS**

- 40E-4.010 Review of Environmental Resource Permit Applications
- 40E-4.011 Policy and Purpose (Repealed)
- 40E-4.021 Definitions (Repealed)
- 40E-4.031 Implementation
- 40E-4.041 Permits Required (Repealed)
- 40E-4.0415 Permit Thresholds (Repealed)
- 40E-4.042 Formal Determination of Wetlands and Other Surface Waters (Repealed)
- 40E-4.051 Exemptions From Permitting (Repealed)
- 40E-4.0515 Exemptions From Specified Review Criteria (Repealed)
- 40E-4.052 Request for Exemption (Repealed)
- 40E-4.053 Conditions for Exemption (Repealed)
- 40E-4.054 Modification of Exempt Projects (Repealed)
- 40E-4.091 Publications, Rules and Interagency Agreements Incorporated by Reference
- 40E-4.101 Content of Permit Applications (Repealed)
- 40E-4.201 Forms and Instructions (Repealed)
- 40E-4.205 Permit Application Processing Fees (Repealed)
- 40E-4.301 Conditions for Issuance of Permits (Repealed)
- 40E-4.302 Additional Conditions for Issuance of Permits (Repealed)
- 40E-4.303 Environmental Resource Permit Authorization (Repealed)
- 40E-4.305 Conceptual Approvals (Repealed)
- 40E-4.311 Variances from Specified Review Criteria for Environmental Resource Permits (Repealed)
- 40E-4.321 Duration of Permits (Repealed)
- 40E-4.331 Modification of Permits (Repealed)
- 40E-4.341 District Revocation or Modification of Permits (Repealed)
- 40E-4.351 Transfer of Permits (Repealed)
- 40E-4.361 Conversion from Construction Phase to Operation Phase (Repealed)
- 40E-4.371 Abatement and Abandonment of a System (Repealed)
- 40E-4.381 General Conditions (Repealed)
- 40E-4.451 Emergency Authorization (Repealed)

**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., 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 10-1-13.*

**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 History—New 9-3-81, Formerly 16K-4.01, Amended 4-20-94, 10-3-95, 12-1-11, Repealed 10-1-13.*

**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 10-1-13.*

**40E-4.031 Implementation.**

(1) The effective dates for the permit program developed pursuant to Part IV, Chapter 373, F.S., are:

(a) January 12, 1977, for the portion of the District formerly within the Ridge and Lower Gulf Coast Water Management District.

(b) March 2, 1974, for the remainder of the District.

(2) The rules implementing the Environmental Resource Permit program shall apply to all projects which do not have a complete permit application, as evidenced by a letter of completeness from the District on the effective date of the rule, unless the project is grandfathered pursuant to Section 373.414, F.S.

(3) Unless otherwise addressed by this rule, an application deemed complete prior to the effective date of a rule shall be governed by the rule in effect at the time the application became complete.

*Rulemaking Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.403-.443 FS. History–New 9-3-81, Amended 4-20-94, 10-5-95.*

**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 10-1-13.*

**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 10-1-13.*

**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 10-1-13.*

**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 10-1-13.*

**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 10-1-13.*

**40E-4.052 Request for Exemption.**

*Rulemaking Authority 373.044, 373.113 FS. Law Implemented 373.406, 373.413 FS. History—New 3-9-83, Repealed 4-20-94.*

**40E-4.053 Conditions for Exemption.**

*Rulemaking Authority 373.044, 373.113 FS. Law Implemented 373.406, 373.413 FS. History—New 3-9-83, Repealed 4-20-94.*

**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 10-1-13.*

**40E-4.091 Publications, Rules and Interagency Agreements Incorporated by Reference.****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) “Environmental Resource Permit Applicant’s Handbook, Volume II For Use Within the Geographic Limits of the South Florida Water Management District, August 10, 2014, <http://www.flrules.org/Gateway/reference.asp?No=Ref-04449>, which incorporates the following forms or materials by reference:

1. U.S. Department of Agriculture, Soil Conservation Service, “Rainfall Frequency Atlas of Alabama, Florida, Georgia and South Carolina for Durations from 30 Minutes to 24 Hours and Return Periods from 1 to 100 years” (1978), <http://www.flrules.org/Gateway/reference.asp?No=Ref-02975>, referenced in Subsection 5.7.2(c);

2. Florida Department of Transportation “Drainage Manual, Appendix B: IDF-Curves, Precipitation Data, Rainfall Distributions” (August 2001), <http://www.flrules.org/Gateway/reference.asp?No=Ref-02981>, referenced in Section 5.7.2(d);

3. U.S. Department of Agriculture, Natural Resources Conservation Service, “National Engineering Handbook, Part 630, Chapter 10” (2004), <http://www.flrules.org/Gateway/reference.asp?No=Ref-02983>, referenced in Subsection 5.7.6(b);

4. 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>, reference in Section 4.2.2(b)6.b;

5. 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>, referenced in Section 4.2.2(b)6.c.

(b) 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) State water quality standards set forth in Chapters 62-4 (5/9/2013),

<http://www.flrules.org/Gateway/reference.asp?No=Ref-02976>, 62-302 (7/17/2013), <http://www.flrules.org/Gateway/reference.asp?No=Ref-02982>, 62-520 (7/12/2009), <http://www.flrules.org/Gateway/reference.asp?No=Ref-02977>, and 62-550, F.A.C., (2/16/2012), <http://www.flrules.org/Gateway/reference.asp?No=Ref-02978>. The state water quality standards are also defined and incorporated in Section 2.1.19 of the Applicant's Handbook, Volume II.

(d) Chapter 62-312, Part IV, F.A.C., "Additional Criteria for Dredging and Filling Within Outstanding Florida Waters in Monroe County," (2/16/2012), <http://www.flrules.org/Gateway/reference.asp?No=Ref-02974>.

(e) 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) The documents listed in subsection (1) can also be obtained at no cost by contacting the South Florida Water Management District Clerk's Office, South Florida Water Management District, 3301 Gun Club Road, West Palm Beach, FL 33406, (800) 432-2045, ext. 6436, or (561) 682-6436.

*Rulemaking Authority 373.044, 373.103, 373.113, 373.413, 373.418, 373.4131, 373.441 FS. Law Implemented 373.046, 373.413, 373.4131, 373.414, 373.4142, 373.416, 373.418, 373.426, 373.441 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, 10-1-13, 8-10-14.*

#### **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 10-1-13.*

#### **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 10-1-13.*

#### **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 10-1-13.*

#### **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 10-1-13.*

**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 10-1-13.*

**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 10-1-13.*

**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 10-1-13.*

**40E-4.311 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 10-3-95, Amended 7-2-98, 6-12-00, Repealed by Section 3, Chapter 2012-31, Laws of Florida, 5-27-12.*

**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 10-1-13.*

**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 10-1-13.*

**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 10-1-13.*

**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 10-1-13.*

**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 10-1-13.*

**40E-4.371 Abatement and Abandonment of a System.**

*Rulemaking Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.426, 373.433 FS. History—New 10-3-95, Repealed 4-14-03.*

**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 10-1-13.*

**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 10-1-13.*