

Notice of Proposed Rule

WATER MANAGEMENT DISTRICTS **South Florida Water Management District**

RULE NO: RULE TITLE

40E-1.607: Permit Application Processing Fees

PURPOSE AND EFFECT: To adjust the District's permit application processing fees for environmental resource and surface water management permits, dredge and fill permits and formal determination of wetlands and other surface waters in accordance with Rule 62-113, F.A.C. In addition, the District is proposing additional adjustments to certain fees in order to recover a larger portion of the cost to the District to process, monitor and inspect for compliance.

SUMMARY: Pursuant to Rule 62-113, F.A.C. the Florida Department of Environmental Protection (FDEP) delegated its authority to the water management districts to adjust all of the permit application processing fees to reflect at a minimum, any upward adjustment in the Consumer Price Index by the United States Department of Labor since the original fee was established or most recently revised and to identify the inflation index used for making the fee adjustments. The proposed actual upward adjustments appear on Tables 40E-1.607(3)(a), (3)(b), and (5), F.A.C. The inflation index used for making all fee adjustments is the price paid by all urban consumers for a market basket of consumer goods and services; specifically, the CPI figures for the "CPI-U, U.S. City Average, All Items" established for the previous five years by the Bureau of Labor Statistics (BLS) (www.bls.gov/cpi/), computed as provided in the BLS publication "Handbook of Methods", Chapter 17 (www.bls.gov/opub/hom/pdf/homch17.pdf).

Pursuant to Section 373.109, Fla. Stat., and the delegation in FDEP Rule 62-113, F.A.C., the District is also required to charge new fees under the Environmental Resource Permit program of Part IV, Chapter 373, F.S., as follows: (a) a new minimum fee of \$250 for environmental resource permit (ERP) noticed general permits and individual permits; (b) a new minimum fee of \$100 to verify qualification for an exemption from regulation under Part IV, Chapter 373, Fla. Stat.; and (c) a new minimum fee of \$500 fee to conduct an informal wetland boundary determination.

In order to recover a larger portion of the cost to the District to process, monitor and inspect for compliance, the District is also proposing additional adjustments to fees for new individual permits for agricultural and non-agricultural projects (including mitigation banks), individual permit modifications for agricultural and non-agricultural projects (including mitigation banks), standard general permits and general permits for agricultural and non-agricultural projects both new and modified, early work, permit transfers, variances associated with environmental resource permit applications, new individual operation permits, environmental resource and surface water management letter modifications, new or modified individual or standard general permits solely for environmental restoration or enhancement activities provided such activities are not associated with a mitigation bank and are not being implemented as mitigation for other activities that require a permit under Part IV of Chapter 373, F.S., dredge and fill Permits both short form and standard, variances associated with a wetland resource permit application, dredge and fill general permits and modifications, dredge and fill transfer of permits or time extensions, formal wetland determinations with modified categories. The District is also proposing a new \$100 fee to process no notice general permits pursuant to Rules 40E-400.315 and 40E-400.316, F.A.C., and a new \$500 fee to process permit extensions.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: Pursuant to Section 373.109, F.S., and Rule 62-113, F.A.C., minimum fees are proposed and fee adjustments are proposed based on upward adjustments to the Consumer Price Index (CPI), to reflect the increase in the cost of living since those fees were last adjusted. For certain fee categories, fee increases are proposed to recover a higher percentage of the costs of processing, monitoring, and inspecting for compliance. The increased fees are generally scaled in consideration of project size and complexity with higher fees charged for larger and more complex projects.

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

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SPECIFIC AUTHORITY: [373.044](#), [373.109](#), [373.113](#), [373.421\(2\)](#), [373.421\(6\)\(b\)](#), [403.201 FS](#).

LAW IMPLEMENTED: [218.075](#), [373.016\(5\)](#), [373.103](#), [373.109](#), [373.4135](#), [373.421\(2\)](#), [373.421\(6\)\(b\)](#), [403.201 FS](#).

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

DATE AND TIME: August 13, 2009, 9:00 a.m.

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

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Maria Clemente, P.E., Division Director, Regulatory Program Support, Environmental Resource Regulation, South Florida Water Management District, 3301 Gun Club Road, West Palm Beach, FL 33406, (800)432-2045, ext. 2308 or (561)682-2308, email: mclement@sfwmd.gov. For procedural issues contact Jan Sluth, Senior Paralegal, South Florida Water Management District, 3301 Gun Club Road, West Palm Beach, FL 33406, (800)432-2045, ext. 6299 or (561)682-6299, email: jsluth@sfwmd.gov

THE FULL TEXT OF THE PROPOSED RULE IS:

40E-1.607 Permit Application Processing Fees.

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

(1) through (2) No change.

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

TABLE 40E-1.607(3)(a)
PERMIT APPLICATION PROCESSING FEES FOR
ENVIRONMENTAL RESOURCE PERMIT APPLICATIONS
REVIEWED PURSUANT TO CHAPTERS 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, except Mitigation Bank	
Project area less than 100 acres	
Agriculture	\$ 4,029 <u>3050</u>
All others, <u>including Mitigation Banks</u>	\$ 7,500 <u>5000</u>
Project area 100 acres to less than 640 acres	
Agriculture	\$ 5,284 <u>4000</u>
All others, <u>including Mitigation Banks</u>	
Project area 640 acres or more	\$ 13,125 <u>7500</u>
Agriculture	\$ 6,605 <u>5000</u>
All others, <u>including Mitigation Banks</u>	\$ 25,000 <u>10,000</u>
New Individual Permit, Mitigation Bank	
Project area less than 100 acres	\$5000
Project area 100 acres to less than 640 acres	\$7500
Project area 640 acres or more	\$10,000

Individual Permit Modification, except Mitigation Bank	
Project area less than 100 acres	
Agriculture	\$ <u>2,708</u> 2050
All others, including Mitigation Banks	\$ <u>5,000</u> 3500
Project area 100 acres to less than 640 acres	
Agriculture	\$ <u>3,303</u> 2500
All others, including Mitigation Banks	\$ <u>10,000</u> 5000
Project area 640 acres or more	
Agriculture	\$ <u>4,624</u> 3500
All others, including Mitigation Bank	\$ <u>15,000</u> 7500
Individual Permit Modification, Mitigation Bank	
Project area less than 100 acres	\$3500
Project area 100 acres to less than 640 acres	\$5000
Project area 640 acres or more	\$7500
New Standard General Permit (excluding incidental site activities pursuant to Rule 40E-40.042, F.A.C.	
Agriculture	\$ <u>859</u> 650
All others	\$ <u>3,500</u> 2000
Standard General 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	\$ <u>661</u> 500
All others	\$ <u>1,500</u> 1000
Noticed General Permit pursuant to Chapter 40E-400, F.A.C., including aquaculture	\$ <u>250</u> 100
Single family residential homesite consisting of 10 acres or less in total land area	\$ 100
Standard General Permit for incidental site activities pursuant to Rule 40E-40.042, F.A.C. (<u>Early Work</u>)	\$ <u>1,000</u> 500
Transfer of permit (including Mitigation Bank) to another entity pursuant to Rules 40E-1.6107 and 40E-4.351, F.A.C.	\$ <u>675</u> 450
Variance associated with an environmental resource permit application From paragraph 40E-4.301(1)(e), F.A.C.	\$ <u>750</u> 100
From other permitting standards, permit conditions, or water quality standards	\$ <u>1,500</u> 500
New Individual Operation Permit	\$ <u>5,250</u> 3500
Letter Modification	\$ <u>250</u> 100
New Individual or Standard General Permits, or Individual or Standard General 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	\$ 250 400
<u>No Notice General Permits pursuant to Rules 40E-400.315 and 40E-400.316, F.A.C.</u>	\$ 100
<u>Verification that an activity is exempt from regulation under Part IV, Chapter 373 or 403.813, F.S.</u>	\$ 100
<u>Informal wetland boundary determinations under Part IV of Chapter 373, F.S. for property less than or equal to 1 acre</u>	\$ 500
<u>Permit Extensions</u>	\$ 500

1. through 4. No change.

5. The District shall use the Consumer Price Index (CPI) adopted by the United States Department of Labor since the most recently revised fee increase for revising fees under Part IV of Chapter 373, F.S., pursuant to Section 373.109, F.S. The inflation index used is the price paid by all urban consumers for a market basket of consumer goods and services; specifically, the CPI figures for the "CPI-U, U.S. City Average, All Items" established for the previous five years by the Bureau of Labor Statistics (BLS) (www.bls.gov/cpi/), computed as provided in the BLS publication "Handbook of Methods", Chapter 17 (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 4000
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).	\$ 750 500
Short form construction projects involving the construction of new docking or boardwalk facilities, pursuant to subsection 62-312.070(2), F.A.C. (1993), that provide:	
0-2 new boat slips	\$ 300
3-9 new boat slips	\$ 500
Dredge and fill construction permits in excess of 5 years	
Short form permits from 6 years up to and including 10 years	\$3000
Standard form permit application processing fee for a construction period of 6 years shall be \$6000 and shall increase by \$1000 for each year beyond 6 years, up through and including 25 years and a corresponding fee of \$25,000.	
Variance associated with a wetland resource permit application	
From the prohibition of subsection 62-312.080(7), F.A.C.	\$ 132 400

From other permitting standards, permit conditions, or water quality standards	\$ 661 500
General Permits	\$ 132 400
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:	
Transfer of permits or time extensions	\$ 66 50
Minor technical changes	
Existing permit fee is less than \$300, except for modification to permits issued pursuant to Section 403.816, F.S.	\$ 66 50
Existing permit fee is equal to or more than \$300	\$ 330 250
1. through 3. No change.	
(4) No change.	

(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
<u>Property less than or equal to 10 acres</u>	<u>\$500</u>
<u>Property greater than 10 acres but less than or equal to 100 acres</u>	<u>\$1,500</u>
<u>Property greater than 100 acres but less than or equal to 320 acres</u>	<u>\$3,500</u>
<u>Property greater than 320 acres</u>	<u>\$5,000</u>
Property less than or equal to 1 acre	\$250
Property greater than 1 acre but less than or equal to 10 acres	\$550
Property greater than 10 acres but less than or equal to 40 acres	\$750
Property greater than 40 acres but less than or equal to 120 acres	\$1500
Property greater than 120 acres	\$1500
Each additional 100 acres or portion thereof	\$200
Renewal	<u>\$350</u> 250

(6) through (7) No change.

THE DISTRICT PROPOSES NOVEMBER 1, 2009 FOR THE EFFECTIVE DATE OF THIS RULE.

Rulemaking Specific 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, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Maria Clemente, Division Director, Regulatory Program Support

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 11, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: February 13, 2009