

## MEMORANDUM

**TO:** Governing Board Members

**THROUGH:** Chip Merriam, Deputy Executive Director, Water Resources

**DATE:** June 15, 2007

**SUBJECT:** **Adopt amendments to Rules 40E-4.051, 40E-400.443, and 40E-400.447, F.A.C., to establish Exemptions for minor roadway safety projects and recreational paths, and to modify activities to be granted Noticed General Permits to the Florida Department of Transportation, Counties and Municipalities, and the Florida Turnpike Enterprise and various transportation authorities, for minor bridge alteration, replacement, maintenance and operation and for minor activities within existing Rights-of-way or Easements.**

### RECOMMENDATION

Staff recommends adopting amendments to Rules 40E-4.051, 40E-400.443, and 40E-400.447, F.A.C., to establish Exemptions and amend Noticed General Environmental Resource Permits for minor roadway projects.

### BACKGROUND

During the 2006 legislative session, HB7077 contained several exemptions from Environmental Resource Permit (ERP) requirements for FDOT projects. The types of projects include; adding paved shoulders to meet safety standards, extending existing culverts, in kind bridge replacements, addition of pedestrian or bicycle facilities, and other existing design criteria that are not necessarily appropriate for roadway projects. Discussions between staff of FDOT, FDEP and the other water management districts resulted in the conclusion that instead of legislated exemptions, it was more appropriate to develop more specific Exemptions or Noticed General Permits or other rule or criteria revisions for these projects. The District committed to FDOT that we would work with them and the other agencies to develop and adopt the necessary revisions to our rules to accomplish the objectives of the proposed bill. The bill was then withdrawn.

The subject activities have been determined to have minimal adverse impacts to the water resources of the District and are being incorporated into Exemptions and Noticed General Permits within Chapters 40E-4 or 40E-400, F.A.C. The proposed revisions were developed during coordination meetings between all the agencies involved and will further enhance our commitment to accomplish the objectives of the proposed bill. One advertised public workshop was conducted on March 27, 2007. All comments regarding the proposed rule amendments have been positive.

**Staff Contact:** **Damon Meiers, Deputy Director, Environmental Resource Regulation Department (561-682-6876)**

THE FULL TEXT OF THE PROPOSED RULE IS:

**40E-4.051 Exemptions From Permitting.**

(1) through (10) No Change.

(11) Minor Roadway Safety Projects.

The construction of the following minor roadway safety projects provided that the capacity of existing swales, ditches, or other stormwater management systems is not reduced; the projects are not located within wetlands or other surface waters; and the projects include best management practices during construction to prevent secondary impacts in adjacent wetlands or other surface waters due to erosion and sedimentation:

(a) Sidewalks.

(b) Turnlanes less than 0.25 miles in length and other intersection improvements.

(c) Road widening and shoulder paving projects which do not result in the creation of additional traffic lanes.

(12) Recreational Paths

Recreational paths that are not located within wetlands or other surface waters; include best management practices during construction to prevent secondary impacts in adjacent wetlands or other surface waters due to erosion and sedimentation; that have a width of eight feet or less for unidirectional paths and twelve feet or less for bidirectional paths; and which do not allow motorized vehicles powered by internal combustion engines except for maintenance and emergency vehicles.

*Specific Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.406, 373.413, 373.416, 403.813(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, \_\_\_\_\_.*

**40E-400.443 General Permit ~~to the Florida Department of Transportation, Counties and Municipalities~~ for Minor Bridge Alteration, Replacement, Maintenance and Operation.**

(1) A general permit is hereby granted to the Florida Department of Transportation, Counties, ~~and~~ Municipalities, the Florida Turnpike Enterprise (§338.2215, F.S.), and the various Transportation Authorities defined in Chapters 343, 348 and 349, F.S., to conduct the activities described below:

(a) The replacement, ~~or~~ modification or maintenance of bridges and approaches where the combined total of dredging and filling, both temporary and permanent, in wetlands and other surface waters does not exceed 0.5 acre.

(b) No Change.

(2) (a) through (k) No Change.

(l) This general permit authorizes dredging and filling for the replacement, ~~or~~ modification or maintenance of a bridge and approaches for a specific crossing of a wetland or other surface water. Replacement of a bridge or modification of a bridge that includes changes in the configuration of the bridge or fill areas due to changes in materials, construction techniques, or meeting current construction codes or safety standards are authorized under this Permit. Any connecting road expansion or alteration associated with such replacement or modification must be authorized by a separate general or individual permit under Chapter 40E-4, 40E-40, or 40E-400, F.A.C., as applicable, before the start of construction; and

(m) No Change.

*Specific Authority 373.044, 373.113, 373.118 FS. Law Implemented 373.118, 373.413, 373.416, 373.426 FS. History—New 10-3-95, \_\_\_\_\_.*

**40E-400.447 General Permit to the Florida Department of Transportation, Counties and Municipalities for Minor Activities Within Existing ~~FDOT~~ Rights-of-Way or Easements.**

(1) A general permit is hereby granted to the Florida Department of Transportation, municipalities, ~~and~~ counties, the Florida Turnpike Enterprise (§338.2215, F.S.) and the various Transportation Authorities defined in Chapters 343, 348 and 349, F.S., to conduct the activities described below:

(a) The extension of existing culverts and crossing approaches to accommodate widening of the roadway where excavation or deposition of material shall not exceed 1000 cubic yards in wetlands and other surface waters and the area from which material is excavated or to which material is deposited shall not exceed a total of 0.25 acres at any one ~~location (project site)~~ culverted crossing. The 1000 cubic yardage limitation shall be separately applied to excavation and deposition of material.

(c) through (g) No Change.

(2) through (3) No Change.

*Specific Authority 373.044, 373.113, 373.118 FS. Law Implemented 373.118, 373.413, 373.416, 373.426 FS. History—New 10-3-95, Amended 6-26-02, \_\_\_\_\_.*

NAME OF PERSON ORIGINATING PROPOSED RULE: Damon Meiers, Deputy Department Director, Environmental Resource Regulation Department

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: South Florida Water  
Management District Governing Board

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 10, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 2, 2007