

~~(d) If the requested use satisfies all of the criteria set forth in this section, the Land Resources Director, or the Director's designee, shall issue the Special Use Authorization.~~

~~(e) If the requested use does not meet the criteria set forth in this section, the Land Resources Director, or the Director's designee, shall deny the Special Use Authorization application.~~

~~(f) The District's notices of intent to issue or deny a Special Use Authorization shall be governed by Chapter 28-106 and Rule 40D-1.1010, F.A.C.~~

(6) Any person receiving a Special Use Authorization from the District must have the Special Use Authorization in their possession at all times while on District Lands.

(7) Special Use Authorizations shall be subject to terms, conditions, and restrictions as may be prescribed therein. Failure to abide by all terms and conditions shall be a violation of the authorization and this chapter.

~~(8)(7) The District Land Resources Director, or the Director's designee, shall revoke a Special Use Authorization if the grantee violates the conditions of the authorization or engages in a use not specifically authorized.~~

~~(9)(8) A Special Use Authorization does not eliminate the necessity to obtain any required federal, state, or local approval or permit prior to the start of any authorized use.~~

Rulemaking Authority 373.044, 373.113 FS. Law Implemented 373.1391, 373.59 FS. History—New 7-20-04, Amended ____.

NAME OF PERSON ORIGINATING PROPOSED RULE:

Southwest Florida Water Management District

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 15, 2020

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: January 5, 2021

DEPARTMENT OF ENVIRONMENTAL PROTECTION

RULE NO.: RULE TITLE:

62-17.021 Definitions

62-17.191 Postcertification Compliance Review, Monitoring

62-17.211 Modification of Certification, Criteria-change Modifications, Transfer of Ownership

PURPOSE AND EFFECT: The purpose of this Notice of Proposed Rule (NOPR) is to: delete definitions in Rule 62-17.021, F.A.C., that are already defined by statute or that the associated rule has been repealed and to revise existing definitions; update and clarify processes in Rule 62-17.191, F.A.C., for review of postcertification submittals in order to determine compliance with the Conditions of Certification; and update and clarify processes in Rule 62-17.211, F.A.C., for

modifying a certification and transferring a certification and to incorporate the Notice of Intent to Transfer of Certification Form into the rule section.

SUMMARY: The proposed rule amendments address Electrical Power Plant Siting regulations and forms.

OTHER RULES INCORPORATING RULE 62-17.021, F.A.C.: 62-17.031, F.A.C.

EFFECT ON THOSE OTHER RULES: There will be no effect on other rules.

OTHER RULES INCORPORATING RULE 62-17.191, F.A.C.: None

OTHER RULES INCORPORATING RULE 62-17.211, F.A.C.: None

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the Agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: revision of these rules will not have an adverse impact or increase regulatory costs on any entity.

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.

RULEMAKING AUTHORITY: 403.504(1), F.S.

LAW IMPLEMENTED: 403.503, 403.504(1), 403.504(8), 403.511, 403.516, 403.517, F.S.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAR.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Ann Seiler, 2600 Blair Stone Rd., MS 5500, Tallahassee, FL, 32399-2400, Ann.Seiler@Floridadep.gov, (850)717-9113.

THE FULL TEXT OF THE PROPOSED RULE IS:

62-17.021 Definitions.

The words, terms and phrases used in chapter 62-17, F.A.C., Part I, unless otherwise indicated, shall have the meaning set forth in section Section 403.503, F.S. In addition, the following words when used in chapter 62-17, F.A.C., Part I shall have the indicated meanings:

~~(1) "Abandonment" means the procedure by which the Board releases all or part of a site from the terms and conditions of a certification previously granted.~~

~~(1)(2) "Clerk of the Siting Board" means the person designated as the clerk of the department pursuant to section 403.504(10), F.S. Rule 62-103.050, F.A.C.~~

(3) renumbered (2) No change.

~~(4) "Directly associated facility" shall have the same meaning as the term "associated facilities" in Section 403.503(13), F.S. These terms include associated transmission lines if the transmission lines are directly connected to the plant, or if the transmission lines are brought in at the applicant's option.~~

~~(3)(5) "Electronic Copies" means documentation submitted by the applicant which is stored on electronic media (for example, compact disc) in a manner suitable for ease of copying and pasting text or graphics into word processing software. Acceptable formats for electronic copies include Microsoft Word for Windows Versions 5.0 or higher, Rich Text Format, and portable document format (.pdf). Any portable document format (.pdf) files must be of a version that all narrative and tables can be readily converted to text.~~

(6) through (7) renumbered (4) through (5) No change.

~~(8) "Licensee" means an applicant which has obtained a certification order for the subject electrical power plant.~~

~~(6)(9) "Postcertification amendments" means documentation which reflects changes in the certified project a material change in the information provided in the application, by the licensee as certified, that does not require a modification to the conditions of certification.~~

~~(7)(10) "Precertification amendments" means any amendment to the application made prior to certification. It does not include information supplied by the applicant to make the application complete documentation submitted by the applicant during the application review period which reflects changes proposed by the applicant to the designs or plans contained in its previously submitted application. It does not mean responses to requests for additional information to make the application complete as determined by reviewing agencies which are considered supporting information.~~

(11) through (12) renumbered (8) through (9) No change.

(10) "Supplemental Application" means an application for certification for the construction and operation of an additional steam or solar electrical power plant ~~generation unit~~ and associated facilities to be located at a site which has been previously certified for an ultimate site capacity.

Rulemaking Authority 403.504(1), 403.517(1) FS. Law Implemented 403.503, 403.504(1), 403.5115, 403.517 FS. History—New 5-7-74, Amended 12-27-77, Formerly 17-17.02, Amended 5-9-83, Formerly 17-17.021, Amended 2-1-99, 2-13-08, _____.

62-17.191 Postcertification Compliance Review, Monitoring.

(1) Pursuant to specific conditions of certification, a licensee may be required to file site-specific technical data to allow the review by the department and any other affected agency of the licensee's compliance with the conditions of certification. This is considered postcertification review (PCR).

(a) through (b) No change.

(c) The procedures for postcertification submittal processing, if not otherwise specified in the conditions, are as follows:

1. All postcertification submittals of information by the licensee, and all completeness findings and determinations of compliance by affected agencies, are to be filed with the department. Copies of each submittal shall also be ~~simultaneously~~ submitted to the agency requiring the postcertification submittal and any other agency indicated in a specific condition requiring a postcertification submittal.

2. The department, and each affected agency receiving a copy of the postcertification submittal pursuant to subparagraph 62-17.191(1)(c)1., F.A.C., shall review each postcertification submittal for completeness. For the purposes of postcertification reviews, completeness shall mean that the information submitted is both complete and sufficient. The department will consult with the other agencies receiving the submittal, as appropriate, regarding ~~and note~~ completeness ~~problems raised by the other agencies.~~ If the submittal is found by the department, or affected agency, to be incomplete, the licensee shall be so notified. Subsequent findings of incompleteness, by an affected agency, must be made in consultation with the department. Failure of the department or affected agency, to issue such a notice within 30 days after filing of the submittal shall constitute a finding of completeness. If a situation arises in which mutual agreement between either the department and the licensee, or, the licensee and an agency with substantive regulatory jurisdiction over a matter cannot be reached, the department may act as a facilitator in an attempt to resolve the issue.

3. Within 90 days after complete information is submitted, the department, or affected agency, shall give written notification to the licensee and other the agencies to which the postcertification information was submitted of its assessment of whether there is reasonable assurance of compliance with the conditions of certification. If it is determined that compliance with the conditions will not be achieved, the licensee shall be notified with particularity and possible corrective measures suggested. Failure of the department, or affected agency, to notify the licensee in writing within 90 days of receipt of a complete postcertification submittal shall constitute a finding of compliance.

4. If the department, or affected agency, does not give notification of compliance within the time period specified in subparagraph 62-17.191(1)(c)3., F.A.C. 3., ~~above~~, the licensee may begin construction pursuant to the terms of the conditions of certification and the subsequently submitted construction details.

(d) No change.

(2) No change.

(3) The licensee shall provide within 90 days after certification a complete summary of those submittals identified in the Conditions of Certification where due dates for information required of the licensee are identified. Such submittals shall include, but are not limited to, monitoring reports, management plans, wildlife surveys, etc. The summary shall be provided to the Siting Coordination Office and any affected agency or agency subunit to whom the submittal is required to be provided, in a sortable spreadsheet, ~~via CD and hard copy~~, in the format identified below.

Condition Number	Requirement and timeframe	Due Date	Name of Agency or agency subunit to whom the submittal is required to be provided

Rulemaking Authority 403.504(1) FS. Law Implemented 403.504(8), 403.511 FS. History—New 5-7-74, Amended 12-27-77, Formerly 17-17.13, Amended 5-9-83, Formerly 17-17.191, Amended 2-1-99, 2-13-08, _____.

62-17.211 Modification of Certification, ~~Criteria change Modifications~~, Transfer of Certification Ownership.

A certification ~~and conditions of certification~~ can be modified ~~only~~ in accordance with section Section 403.516, F.S., and this rule; or in accordance with section Section 403.511(5), F.S.; or, as a transfer of certification to a new licensee.

(1) For modifications under the provisions of section 403.516(1)(c) Section 403.516, F.S., the following shall apply:

(a) ~~Under Section 403.516(1)(a), F.S., the Siting Board may delegate to~~ the department may initiate the modification upon its own initiative. If the department initiates a modification, the following shall apply; the authority to modify conditions in the certification which have been identified in the adopted conditions as being subject to this provision. This includes the authority to impose new conditions as well as modify existing conditions. The department shall request that such delegation be made as a term of the imposed conditions. A copy of any modification pursuant to this section shall be provided to all parties.

1. A Notice of Intent to Modify shall be sent to parties to the original certification proceedings and any subsequent modification proceedings, at the last address on record for the party. All parties have an on-going duty to notify the department of changes to their relevant contact information.

2. The department shall publish a notice in the Florida Administrative Register (F.A.R.), stating that the deadline for filing objections with the department for parties to the original proceeding, and for parties to any subsequent modification proceedings, is 45 days after issuance of the notice by mail; and the deadline for other persons whose substantial interest may be affected is 30 days after publication of the F.A.R. notice. Objections shall be limited to the portion of the certification that is proposed to be modified.

3. If no timely objections are filed with the department, a final order approving the modification shall be issued by the department.

4. If written objections are filed with the department, the licensee or department may file a request for a hearing concerning the modification with the department. If written objections are filed that address only a portion of the proposed modification, the department shall issue a final order approving the portion of the proposed modification to which no objections were filed, unless that portion of the proposed modification is substantially related to or necessary to implement the portion to which written objections were filed.

~~(b) The process for modifications requested by the licensee may file a petition for modification with the department's Siting Coordination Office, shall be in accordance with Section 403.516(1)(e), F.S., and the~~ If the licensee files a petition for modification, the following shall apply:

1. The process is initiated by the filing of a complete and sufficient petition for modification. The petition shall contain a concise statement of the proposed modification; the factual reasons asserted for the modification, including the changes in circumstance which justify the modification; and a statement of whether, and if so, how the proposed modification, if approved would affect the conditions of certification, the site layout or design as depicted in the current version of the application, and the anticipated affects of the proposed modification on the environment.

2. The Siting Coordination Office will forward the petition to all reviewing agencies. To be deemed properly filed, the licensee shall submit the petition for modification as determined below.

a. The licensee shall consult with the department to determine the appropriate department and agency contacts needed to support the modification review. At a minimum, the request shall be submitted to the department's Siting Coordination Office, the request shall be sent to all parties to

~~the original proceedings and any previous modification proceedings, at the last address on record for the party.~~

b. ~~The licensee shall consult with the department and parties to determine the number of electronic copies needed to support the modification review, and shall submit the number of electronic copies as determined. Parties have a duty to notify the department of changes of address. The applicant shall provide those copies on a timely basis pursuant to Section 403.5064(3), F.S.~~

3. ~~The department may require notice of the petition for modification to be published, based on the criteria in section Section 403.5115(1)(h) 403.5115(1)(g), F.S.; Any such notice and which shall comply with rule Rule 62-17.281, F.A.C.~~

4. ~~The petition shall be reviewed for completeness. Within 25 days of the filing of the petition with the department, agencies with jurisdictional matters affected by the proposal shall file completeness recommendations with the department. Within 30 days of the filing of the petition with the department, the department shall issue a completeness determination. Any subsequent information filings intended to render the petition complete shall be reviewed by the agencies and the department under these same deadlines. Notice in the Florida Administrative Register regarding the Proposed Order shall be published by the department in accordance with Rule 62-17.280, F.A.C., which shall identify the time period for objections specified in subparagraph 6., below.~~

5. ~~If the The department intends to modify the conditions of certification based on the licensee's petition, the process outlined in subparagraphs 62-17.211(1)(a)1. through 3., F.A.C., shall be followed shall send any notice of the proposed order of a modification to the last address of each party to the original certification proceedings as shown in the record of that proceeding, or as may have otherwise been updated by the party.~~

6. ~~If no objections are received from the parties to the certification hearing within 45 days after issuance of the notice by mail, or from other persons whose substantial interest may be affected thereby within 30 days after publication of the F.A.R. notice specified in subparagraph 4., above, then a Final Order approving the Modification shall be issued by the department. If written objections are filed which address only a portion of the proposed requested modification, then the department shall issue a final order Final Order approving the portion of the proposed modification to which no objections were filed, unless that portion of the proposed requested modification is substantially related to or necessary to implement the portion to which written objections are filed.~~

7. ~~If written objections are filed raised, or the department denies the request, the licensee or department may file a request for a hearing on the modification with the department the following shall apply. Written objections shall only address~~

~~matters raised in the request for modification and the department's Proposed Order.~~

a. ~~If objections are raised and agreement cannot be subsequently reached, then pursuant to Section 403.516(1)(e), F.S., a petition for modification may be filed seeking approval for those portions of the request for modification to which written objections were timely filed.~~

b. ~~Any request for a hearing on the modification under Section 403.516(1)(e), F.S., shall be filed with the department and the Division of Administrative Hearings, and served on the parties to the certification hearing and persons who have objected to the modification in writing pursuant to Section 403.516(1)(e)2., F.S. The request shall contain a description of the petitioner; a copy of the initial Request for Modification specified under subparagraph 1., above; a copy of the objections to the request or proposed Order; the information required by Section 403.516(1)(e)1., F.S.; a statement of all disputed issues of material fact or a statement that there are none; a concise statement of the ultimate facts alleged, including the specific facts the requesting party contends warrant issuance of the modification; a statement of the specific rules or statutes the requesting party contends require issuance of the modification; a statement of the relief sought; and any other information which the petitioner contends is material.~~

c. ~~In accordance with Section 403.516(1)(e)4., F.S., a request for modification shall be disposed of in the same manner as an application. At least 30 days prior to the date set for the hearing, the parties shall file their statement of issues with the administrative law judge and the department. The hearing on the modification shall be conducted in the same manner as a certification hearing, and notice of hearing shall be provided as prescribed in Rules 62-17.281, F.A.C. The modification shall not become effective until approved by the Board or the department.~~

(c) In accordance with section 403.516(1)(c)4., F.S., requests for a hearing on a modification shall be disposed of in the same manner as an application, but with time periods established by the administrative law judge commensurate with the significance of the modification. The hearing on the modification shall be conducted in the same manner as a certification hearing, and notice of hearing shall be provided as prescribed in rule 62-17.281, F.A.C. At least 30 days prior to the date set for the hearing the parties shall file their statement of issues with the administrative law judge and the department. The request for a hearing shall contain the information required under chapter 120, F.S. and rule 28-106.201(1) and (2), F.A.C. Administrative res judicata applies to petitions for modification.

(d) ~~Modification fees shall not be required of agencies requesting that the department initiate a modification proceeding.~~

(2) For transfer of a certification, the following shall apply ~~modifications pursuant to Section 403.511(5), F.S.:~~

(a) A transfer of certification of all or part of a certified facility shall be initiated by the licensee's filing written notification, including a completed Notice of Intent to Transfer Certification Form (DEP Form No. 62-17.211(1)), adopted and incorporated by reference herein (link), (effective date), with the department and each agency listed in section 403.507(2)(a) and (b), F.S., of its intent to transfer the certification to a new licensee. The licensee's written notification shall identify the time period for objections specified in paragraph 62-17.211(2)(b), F.A.C. In accordance with Section 403.511(5)(a), F.S., if new rules are adopted which prescribe new or stricter criteria which are applicable to the certified electrical power plant, the certification holder must operate the certified electrical power plant in accordance with such rules unless variances or other relief have been granted.

(b) The agencies identified in paragraph 62-17.211(2)(a), F.A.C., shall have 30 days to file any written objections with the department upon receipt of the written notification and form. If, in accordance with Section 403.511(5)(b), F.S., any holder of a certification pursuant to this Part chooses to operate the certified electrical power plant in compliance with any rules subsequently adopted by the department which prescribe criteria more lenient than the criteria required by the terms and conditions in the certification which are not site specific, the certification holder shall notify the department prior to modifying its method of operation.

(c) The transfer shall be approved unless the department objects to the transfer on the grounds of the inability of the new licensee to comply with the conditions of certification, specifies in writing its reasons therefore, and gives notice and opportunity to petition for a section 120.57, F.S., administrative hearing. A copy of the department's action on the transfer of certification shall be sent to all agencies identified in paragraph 62-17.211(2)(a), F.A.C.

(3) ~~A transfer of certification of all or part of a certified facility shall be initiated by the licensee's filing with the department and the parties a notice of intent to transfer certification to a new licensee. The notice of intent shall identify the intended new certification holder or licensee and the identity of the entity responsible for compliance with the certification. Parties shall have 30 days to file in writing with the department any objections to transfer of the certification. Upon the filing with the department of a written agreement from the intended new licensee to abide by all conditions of certification and applicable laws and regulations, the transfer shall be approved unless the department objects to the transfer on the grounds of the inability of the new licensee to comply with the conditions of certification, specifies in writing its reasons therefore, and gives notice and opportunity to petition for a Section 120.57,~~

~~F.S., administrative hearing. A copy of the department's action on the transfer of certification shall be sent to all parties.~~

(4) ~~For modifications in relation to federally delegated or approved permit programs, pursuant to Section 403.516(1)(b), F.S., the department shall modify a certification order and conditions of certification to conform to any subsequent department issued amendments, modifications or renewals of any separately issued prevention of significant deterioration (PSD) permit, Title V Air Operation permit, National Pollutant Discharge Elimination System (NPDES) permit, or any other permit for the certified electrical power plant issued by the department under a federally delegated or approved permit program so long as no state rule exists which conflicts or is more stringent than the provisos of the federal permits. Pursuant to Section 403.516(1)(b)2., F.S., if the matter has been previously noticed under the requirements for the relevant federally delegated or approved permit program, notice is not required for the modification. However, if the matter has not been previously noticed under the requirements for the relevant federally delegated or approved permit program, notice is required for the modification pursuant to Section 403.516(1)(c)2., F.S.~~

Rulemaking Authority 403.504(1) FS. Law Implemented 403.511(5), 403.516 FS. History—New 5-7-74, Amended 12-27-77, Formerly 17-17.17, Amended 5-9-83, Formerly 17-17.211, Amended 2-1-99, 2-13-08, 5-9-13, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:

Ann Seiler

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Secretary Noah Valenstein

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: 12/08/2020

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: 10/22/2020

DEPARTMENT OF ENVIRONMENTAL PROTECTION

RULE NOS.:	RULE TITLES:
62-213.202	Responsible Official
62-213.420	Permit Applications
62-213.440	Permit Content
62-213.900	Forms and Instructions

PURPOSE AND EFFECT: The purpose of this Notice of Proposed Rule (NPR) is to revise Chapter 62-213, F.A.C., to clarify language in Rule 62-213.202, F.A.C., regarding "Primary Responsible Official" and its use on the notification form, revise the Responsible Official Notification Form to add instructions, adopt and incorporate by reference the Statement of Compliance Form and Responsible Official Notification Form in the rules where they are referenced, clarify monitoring and related recordkeeping and reporting requirements, repeal