

**-Draft Rule dated January 29, 2010-**

**RULES OF THE  
ENVIRONMENTAL PROTECTION  
COMMISSION  
OF HILLSBOROUGH COUNTY**

**CHAPTER 1-13  
DELEGATION RULE**

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**PART I (General Provisions)**

It is the Commission's intent that the Director make reasonable effort to coordinate EPC's regulatory activities with other appropriate agencies, either through delegation or other written agreement.

(1) To the extent possible, implementation of activities on behalf of another agency shall be incorporated and combined with activities of the EPC to minimize duplication. Precisely how activities will be combined shall be identified within the delegation, operating agreement, contract or memorandum of understanding between the affected agencies.

(2) To the extent appropriate, where EPC implements the authority of another agency pursuant to delegation, EPC shall apply the rules, standards, and criteria of the other agency as described in the written agreement.

(3) To the extent that EPC regulations require or provide more stringent standards for the protection of the public and the environment of Hillsborough County than the standards and

criteria of another agency, provision will be made in the written agreement that recognizes this distinction, and as appropriate, sustains the more stringent standards.

**1-13.02 INTERPRETATION.**

To the extent practicable and consistent with our enabling legislation, rules and regulations of another agency shall be interpreted and applied pursuant to delegation according to the meaning given by the other agency.

(1) Where another agency rule implemented by delegation requires submission of an application, notice or other information to the other agency, that rule will be interpreted as requiring submission to the Director.

(2) Where another agency rule implemented by delegation requires that the other agency receive submissions, make a decision, issue a document or take some action, it shall be interpreted as requiring these actions from the Director as provided in the written agreement.

(3) Where another agency rule requires submission of an application fee, provision for its allocation should be reflected in the written agreement with the Commission. Obligation to pay fees under EPC's chapter 1-6 shall be modified according to the written agreement. EPC will make every effort to avoid charging a local fee in addition to the other agency fee, insisting otherwise only to the extent that EPC's expenses in providing services are not fully covered.

**1-13.03 CONFLICTS.**

The provisions of this rule shall not affect the specific provisions contained in any written agreement, contract, delegation or memorandum of understanding, and shall not be used to create ambiguity where none exists in such written agreement.

**PART II (Wastewater Facility Program  
Delegation)**

**1-13.10 SOA.**

(1) When Commission staff exercise

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authority delegated from the Florida Department of Environmental Protection pursuant to the Wastewater Facility Program Specific Operating Agreement entered into between the Secretary of the Department and the Commission, in reviewing, issuing or denying a permit or exemption, inspecting for compliance or enforcing standards and conditions within a permit issued by or on behalf of the Department, they shall use the Department rules in force at the time of the application. Said rules, generally referenced in section 1-13.11 below, are hereby adopted for the limited purpose provided by this paragraph.

(2) Notwithstanding EPC's authority to adopt more stringent standards for Hillsborough County, EPC has not elected to do so in this program as of this time. All of the standards applicable to the Wastewater Facility Program in Hillsborough County are equivalent to those of the Department.

#### **1-13.11 APPLICABLE STANDARDS.**

Department rules, standards and criteria applicable to the program addressed in this part include those pertaining to water quality; industrial and domestic wastewater facilities; resource recovery and management; damage assessment; underground injection; final agency action procedures; surface waters and water quality standards; ground water classes, standards and exemptions; wellhead protection; ground water permitting and monitoring; drinking water standards, monitoring, and reporting; permitting and construction of public water systems; wastewater treatment plant monitoring; detergents; collection systems and transmission facilities; reuse of reclaimed water and land application; wetlands application; wastewater facility permitting; wastewater residuals; animal feed lots; wastewater general permits; water quality based effluent limitations; treatment plant classification and staffing; and solid waste facilities.

### **PART III (Environmental Resource Permitting – delegation)**

#### **1-13.20 ERP Delegation Agreement**

(1) The Florida Department of Environmental Protection (Department) intends to delegate its authority under Chapters 373 and 403, Florida Statutes to regulate certain impacts to wetlands and other surface waters in Hillsborough County pursuant to Chapter 62-344, F.A.C., to the Commission, which requested such delegation and demonstrated to the Department that it has sufficient resources and procedures for the adequate administration and enforcement of a delegated environmental resource permitting (ERP) program. This program will be limited to the activities provided in the delegation agreement between the Department and the Commission dated ~~\_\_\_\_~~, 2008.

a) The delegation agreement ~~dated \_\_\_\_~~, 2008 provides the Executive Director the authority to review specific activities on behalf of the Department and allows the Executive Director to issue one agency action document for a determination under the applicable state ERP program rules and the local Commission rules: Chapter 1-11 and Chapter 1-14. The standards for processing those permit applications shall be those standards approved under this rule chapter, in addition to the standards in Chapter 1-11 and Chapter 1-14. All other Commission rules, however, shall remain in full force and effect as it pertains to the regulated activities.

b) The administrative rules for processing the consolidated determinations shall be those adopted in the Commission's Administrative Procedures Rule Chapter 1-2, unless otherwise specifically provided for in this rule chapter. In the event the Commission's local administrative rules are in conflict with the procedural rules set forth in Chapters 120 and 373, Florida Statutes, the state statutes shall govern that specific conflict. The Executive Director shall review the activities eligible under the delegation agreement in accordance with the Commission's applicable local rules and with the following

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provisions:

(i) For those impacts to wetlands or other surface waters that are reviewed under Chapter 1-11 and qualify for review under the delegation agreement dated \_\_\_\_\_, 2008, the Executive Director, when deciding to authorize impacts to wetlands and other surface waters pursuant to the authority under the applicable rules, shall use the criteria in Sections 373.406, and 373.414(1), (5) and (8), Florida Statutes, as follows: (1) Whether the activity will adversely affect the public health, safety, or welfare or the property of others; (2) Whether the activity will adversely affect the conservation of fish and wildlife, including endangered or threatened species, or their habitats; (3) Whether the activity will adversely affect navigation or the flow of water or cause harmful erosion or shoaling; (4) Whether the activity will adversely affect the fishing or recreational values or marine productivity in the vicinity of the activity; (5) Whether the activity will be of a temporary or permanent nature; (6) Whether the activity will adversely affect archaeological resources under the provisions of section 267.061, Florida Statutes; (7) The current condition and relative value of functions being performed by areas affected by the proposed activity; and (8) The cumulative impact of similar activities pursuant to section 373.414(8), Florida Statutes.

(ii) The Commission hereby adopts Chapter III of the Southwest Florida Water Management District “Basis of Review” for Environmental Resource Permits as adopted by the Department and Southwest Florida Water Management District. Chapter III of the The Water Management District “Basis of Review” dated August 2, 2006 is adopted by reference in this rule and shall be utilized by staff in their review under this Rule. ~~The Commission intends that all future amendments to the Water Management District “Basis of Review” shall be automatically adopted by this rule.~~

(iii) The Commission hereby adopts Sections 40D-4.301 and 40D-4.302, Florida Administrative Code for purposes of

implementing the delegated state ERP program.

~~(iv) The Commission hereby adopts any applicable ERP exemptions or variances for purposes of implementing the delegation agreement. The ERP exemptions and variances shall not affect or apply to the Commission’s local rule standards.~~

(2) The Executive Director, when processing applications under this delegation section, shall comply with any applicable noticing or other procedural requirements that apply to activities regulated under Part IV, chapter 373, Florida Statutes that are subject to the delegation agreement.

(3) The Executive Director, when processing applications under this delegation section, shall comply with the procedural requirements set forth in Section 120.60, Florida Statutes.

~~(4) In the event an applicant, in writing, chooses to deem an application complete under this rule chapter, the Executive Director shall issue a decision solely based on this rule chapter. In the event an application under this rule chapter is requested to be deemed complete, the review process will be bifurcated and the Executive Director’s decision will in no way affect the review under Chapter 1-11 or Chapter 1-14.~~ The Executive Director shall maintain a list of final agency orders under this delegation in accordance with Section 120.53 and 120.533, F.S.

(5) As provided in Section 373.114, Florida Statutes, and if an appeal is sufficient and timely filed, a decision pursuant to delegation may be reviewed by the Florida Land and Water Adjudicatory Commission as appropriate.

**Section History – Adopted July 17, 2008; Amended \_\_\_\_\_, 2010**

**Effective date: \_\_\_\_\_, 2010**

Adopted 10/26/94  
Amended 08/19/99  
Amended 07/17/08

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