

Notice of Proposed Rule

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

RULE NO.: RULE TITLE:

[40E-2.061](#): General Permits by Rule

[40E-2.071](#): Noticed General Permits and Individual Permits

[40E-2.091](#): Publications Incorporated by Reference

PURPOSE AND EFFECT: The District proposes to amend these rules in accordance with the biennial review contemplated by Section 120.74(1), Fla. Stat., to identify and correct deficiencies in its rules; clarify and simplify its rules; delete obsolete or unnecessary rules or delete rules that are redundant of statutes.

SUMMARY: Rule 40E-2.061, F.A.C., is amended to reflect current vertical datum; Rule 40E-2.071, F.A.C., is corrected to include “any connected canal systems that derive water supply from Canals C-23, C-24 or C-25”, which is consistent with the Applicant’s Handbook for Water Use Permit Applications (Applicant’s Handbook); the Applicant’s Handbook is amended to provide clarity to recently adopted Consumptive Use Permitting Consistency rules; properly incorporate specific sections of the Environmental Resource Permit Applicant’s Handbook Volume I; incorporate subsection 62-40.416(9), F.A.C.; add language to permitting criteria for a public water supply conservation plan that is consistent with associated permit conditions; provide additional clarity for dewatering uses and associated permit conditions; update statutory and rule references; update references to water use forms; and make other minor corrections.

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: The proposed amendments update and clarify the District's rules and are not substantive in nature. There will be no additional adverse impact on small business or increases in regulatory costs.

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: [373.044](#), [373.113](#), [373.118](#), [373.171](#), [373.216](#), F.S.

LAW IMPLEMENTED: [373.042](#), [373.0421](#), [373.083](#), [373.109](#), [373.118](#), [373.196](#), [373.219](#),

[373.223](#), [373.224](#), [373.229](#), [373.232](#), [373.233](#), [373.236](#), [373.239](#), [373.250](#), 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: Kellie Madison, Section Leader, Technical Services, South Florida Water Management District, 3301 Gun Club Road, West Palm Beach, FL 33406, toll free: (800) 432-2045, ext. 6906, direct: (561) 682-6906, email: kmadison@sfwmd.gov, or Jennifer Brown, Senior Attorney, Office of Counsel, South Florida Water Management District, 3301 Gun Club Road, West Palm Beach, FL 33406, toll free: (800) 432-2045, ext. 2258, direct: (561) 682-2258, email: jebrown@sfwmd.gov. For procedural questions, contact Jan Sluth, Sr. Paralegal, South Florida Water Management District, 3301 Gun Club Road, West Palm Beach, FL 33406, toll free: (800) 432-2045, ext. 6299, direct: (561) 682-6299, email: jsluth@sfwmd.gov.

THE FULL TEXT OF THE PROPOSED RULE IS:

40E-2.061 General Permits by Rule.

(1) No Change.

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

3. Will not dewater to a depth below 0.0 feet NGVD (or equivalent NAVD) within 1,000 feet of saline water, except when dewatering water with a chloride concentration of greater than 1,000 milligrams per liter;

4. through 6. No Change.

(b) No Change.

(c) Linear projects, such as roads, utilities, or pipelines, may qualify for multiple general permits by rule. The dewatering activity for these projects may have a rolling one-year duration, in which the dewatering operation at the end of each one year period occurs ~~no~~ more than one mile from the location at the beginning of each one year period.

(3) No Change.

Rulemaking Authority 373.044, 373.113, 373.118, 373.171, 373.216 FS. Law Implemented 373.083, 373.118, 373.219, 373.223 FS. History—New 3-15-10, Amended 7-14-14, _____.

40E-2.071 Noticed General Permits and Individual Permits.

(1) and (1)(a) No Change.

1. Surface water from the C-23, C-24 or C-25 Canals, or any connected canal systems that derive water supply from these District canals;

2. through 6. No Change.

(b) through (e) No Change.

(2) No Change.

Figures 2-1, 2-2, and 2-3 No Change.

Rulemaking Authority 373.044, 373.113, 373.118, 373.171, 373.216 FS. Law Implemented 373.083, 373.118, 373.219, 373.223 FS. History—New 7-14-14, Amended _____.

40E-2.091 Publications Incorporated by Reference.

(1) The “Applicant’s Handbook for Water Use Permit Applications within the South Florida Water Management District – _____, 2015 July 16, 2014,” [<https://www.flrules.org/gateway/reference.asp?NO=Ref-04401>], is incorporated by reference herein.

(2) The following forms and materials are referenced in the “Applicant’s Handbook for Water Use Permit Applications within the South Florida Water Management District – _____ July 14, 2014” and are incorporated herein:

(a) through (f) No Change.

(g) Subsections of the Environmental Resource Permit Applicant’s Handbook, Volume I (General and Environmental), October 1, 2013, [HYPERLINK], referenced in Section 3.3.6, as follows:

1. Subsection 10.2.2.3 regarding Assessment of Impacts;
2. Subsection 10.3.1 regarding Types of Mitigation, specifically Subsections 10.3.1.1, 10.3.1.3, and 10.3.1.8;
3. Subsection 10.3.2 regarding Guidelines for the Amount of Mitigation;
4. Subsection 10.3.3 regarding Mitigation Proposals;
5. Subsection 10.3.4 regarding Monitoring Requirements for Mitigation Areas;
6. Subsection 10.3.5 regarding Protection of Mitigation Areas;
7. Subsection 10.3.6 regarding Mitigation Success;
8. Subsection 10.3.7 regarding Financial Responsibility for Mitigation; and,
9. Figure 10.2.8-5.

(3) Subsections 62-40.416(7), ~~and~~ (8), ~~and~~ (9), F.A.C.; (May 3, 2014), <http://www.flrules.org/Gateway/reference.asp?No=Ref-04373>, are referenced in Subsection 3.1.2.A and incorporated by reference herein.

(4) No Change.

Rulemaking Authority 373.044, 373.113, 373.118, 373.171, 373.216 FS. Law Implemented 373.042, 373.0421, 373.083, 373.109, 373.196, 373.219, 373.223, 373.224, 373.229, 373.232, 373.233, 373.236, 373.239, 373.250 FS. History—New 9-3-81, Formerly 16K-2.035(1), Amended 2-24-85, 11-21-89, 1-4-93, 4-20-94, 11-26-95, 7-11-96, 4-9-97, 12-10-97, 9-10-01, 12-19-01, 8-1-02, 6-9-03, 8-31-03, 4-23-07, 9-13-07, 2-13-08, 10-14-08, 7-2-09, 3-15-10, 3-18-10, 9-26-12, 10-23-12, 7-21-13, 7-14-14, 7-16-14, _____.

NOTE: The proposed amendments to the Applicant’s Handbook for Water Use Permit Applications within the South Florida Water Management District are available online at www.wfwmd.gov/rules, CUP Amendments 2015, or by contacting the persons identified above.

NAME OF PERSON ORIGINATING PROPOSED RULE: Maria C. Clemente, Bureau Chief,
Water Use Bureau

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 14, 2015

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: April 20,
2015