

**SOUTHWEST FLORIDA WATER MANAGEMENT DISTRICT  
ANNUAL REGULATORY PLAN  
FOR  
JULY 2011 – JUNE 2012**

RULES	SUMMARY AND PURPOSE OF PROPOSED RULEMAKING	MANDATED BY LAW, ORDER OR DIRECTIVE
<b>CHAPTER 40D-1</b>	<b>PROCEDURAL RULES</b>	
	<i>The District's procedural rules contain exceptions to the Uniform Rules of Procedure authorized by the Administration Commission, delegations of District authority to other agencies, legal descriptions of watershed basins and other related legal procedure matters. Most of the District's procedural rules are mandated by statute.</i>	
1.102, 1.1002, 1.603, 1.607, 1.1010	Amend rules identified in the District's EO 11-01 rule report as unnecessarily burdensome, duplicative of statutory language or no longer necessary. These include: delete definitions that duplicate statutory definitions (1.102), delete outdated provisions in the District's water shortage variance procedure rule (1.1002), not require multiple copies of permit applications and supporting documents as unnecessarily burdensome (1.603), delete list of application fees for dredge and fill permits no longer issued by the District (1.607). Also delete requirement for permittees to publish newspaper notice of District action on their permit application as unnecessarily burdensome (1.1010), clarify permit application resubmittals that are exempt from application fee, as unnecessarily burdensome, reduce permit fees for online applications (1.607)	Amendments mandated by §120.74, F.S., and EO 11-72
1.902	Repeal rule on investigations and probable cause determinations identified in the District's EO 11-01 report as duplicative of statute and not necessary	Repeals mandated by §120.74, F.S., and EO 11-72
<b>CHAPTER 40D-2</b>	<b>WATER USE PERMITTING</b>	
	<i>Pursuant to §373.216, F.S., the District is required to implement a water use permitting program. This chapter and incorporated Basis of Review set forth the District's water use permitting program.</i>	
2.051, 2.361	Amend rule identified in the District's EO 11-01 rule report and additional rule identified by staff as unnecessarily burdensome, duplicative of statutory language or no longer necessary. Amendments will: delete outdated reference to permit agreements (2.051) and delete timeframe to file renewal permit applications for individual WUPs as unnecessarily burdensome (2.361)	Amendments mandated by §120.74, F.S., and EO 11-72
2.311, 2.511	Repeal rules identified in the District's EO 11-01 report as unnecessarily burdensome, duplicative of statute or no longer necessary. These include: repeal of rule on competing applications as duplicative of §373.233, F.S., (2.311) and repeal of rule on declaration of water shortages as duplicative of provisions in Chapter 40D-21, F.A.C., Water Shortage Plan (2.511)	Repeals mandated by §120.74, F.S., and EO 11-72
2.101	Adopt revised WUP application forms to clarify information being requested, address	Corrections to forms mandated

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	wholesale public supply information, and correct wording on the forms, to reduce application submittal costs and simplify applications	by §120.74, F.S.
2.091, WUP Manual Part B, BOR sec. 3.1	Amendments necessary to implement changes to §373.250(3), F.S., to address certain reuse feasibility requirements for water use permit applications and reuse providers	Mandated by §373.250(3)(c) and (d), F.S.
2.302	Amend to adopt water reservation for Lake Pretty necessary to achieve proposed minimum levels for Lakes Roger and Raleigh, in compliance with § 373.223(4), F.S., authorizing water reservations for the protection of fish and wildlife and public health and safety	§373.223(4), F.S., authorizes water reservations as a means for complying with §373.042, F.S., MFL requirement
2.302	Amend to adopt water reservation for Upper Peace River/Lake Hancock to help achieve the minimum flow for the Upper Peace River, in compliance with § 373.223(4), F.S., authorizing water reservations for the protection of fish and wildlife and public health and safety	§373.223(4), F.S., authorizes water reservations as a means for complying with §373.042, F.S., MFL requirement
2.091(1)(b), 2.101 and WUP Manual Part D	Amend provisions relating to use of the most recent census and demographic data for public supply permit applications, to be updated this year	Corrections comply with §120.74, F.S.
2.091(1)(b), 2.101, 2.322 and WUP Manual Part B	Amend provisions to clarify use of Bureau of Economic and Business Research (BEBR) medium population data for projecting population growth in public supply service areas	Corrections comply with §120.74, F.S.
2.091	Amend Dover well mitigation report deadline and address other cleanup matters for Dover/Plant City WUCA rules	Amendments comply with EO 11-72 objectives
Various	General nonsubstantive cleanup resulting from 90-day review per EO 11-01	Amendments mandated by §120.74, F.S.
2.091 and WUP Manual Part B, BOR	Amendments to groundwater replacement credit provisions to provide greater flexibility in the use and maintenance of credits	Amendments comply with §120.74, F.S.
Various	Amendments for statewide consistency with DEP and all WMDs	DEP directive
<b>CHAPTER 40D-3</b>	<b>REGULATION OF WELLS</b>	
	<i>The District has regulated well construction and well drillers since 1969. Pursuant to §373.308 and .309, F.S., all WMDs are required to implement a program for the issuance of permits for the location, construction, repair and abandonment of water wells and to administer well construction and well contractor licensing rules implementing Part III of Chapter 373, F.S. The District is also required pursuant to §373.323 and .324, F.S., to issue well contractor licenses and is required by</i>	

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	<i>§373.333, F.S., to undertake disciplinary actions against well contractor licensees. This chapter contains the District's well construction rules and incorporates DEP rules for well contractor licensing and well construction regulation.</i>	
3.021, 3.037, 3.041, 3.101, 3.301, 3.321, 3.502, 3.507, 3.517	Amend rules identified in the District's EO 11-01 report as unnecessarily burdensome, duplicative of statutory or other rule language or no longer necessary. These include: delete definitions that are in statute or other rule (3.021), delete repetitive statement of required forms (3.037), delete repetitive statements of incorporated DEP rules (3.041, 3.507), eliminate overly burdensome requirements pertaining to site plans submitted in support of public supply well construction permit applications (3.101), delete restatement of Chapter 120, F.S., administrative hearing rights (3.301), delete unnecessary provisions relating to soil borings and foundation holes (3.502, 3.517), allow permit extensions up to 1 year for all wells, not just public supply wells, to reduce costs and eliminate unnecessary burden (3.321)	Amendments mandated by §120.74, F.S., and EO 11-72
3.011, 3.031, 3.038, 3.201, 3.525, 3.529	Repeal rules identified in the District's EO 11-01 rule report as no longer necessary, duplicative of statute or other regulations or are unduly burdensome. These include: unnecessary statement of policy and purpose (3.011), unnecessary historic implementation date (3.031), duplicative citation of statutes and DEP rule addressing well contractor violations (3.038), duplicative statement of permit processing fee (3.201), duplicative rule prohibiting use of explosives (3.525), duplicative rule prohibiting flowing wells (3.529)	Repeals mandated by §120.74, F.S., and EO 11-72
3.037(5)	Adopt revised well contractor licensing application consistent with § 373.323, F.S., concerning how applicants demonstrate requisite work experience, to avoid creation of job barriers or unnecessary licensing impediments	Amendments required for compliance with §373.323, F.S.; complies with EO 11-72 objectives
3.037(4)	Adopt revised appendix to Memorandum of Agreement Between EPA and SWFWMD to include additional Superfund sites as identified by EPA, as necessary to prevent spread of groundwater contamination and protect public health, safety and welfare	Amendments comply with EO 11-72 objectives
<b>CHAPTERS 40D-4, 40 AND 400</b>	<b>ENVIRONMENTAL RESOURCE PERMITTING</b>	
	<i>The District administers the ERP program pursuant to a DEP delegation agreement mandated by § 373.046(4), F.S. As provided in § 373.413, F.S., the District may require such permits and impose such reasonable conditions as necessary to assure that the construction or alteration of a surface water management system complies</i>	

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	<i>with Part IV of Chapter 373, F.S., and the applicable rules, and will not be harmful to the water resources of the District. These chapters and incorporated Basis of Review contain the District's ERP regulatory program.</i>	
4.021, 4.041, 4.042, 4.051, 4.091, 4.101, 4.331, 4.351	Amend rules identified in the District's EO 11-01 report as unnecessarily burdensome, duplicative of statutory or other rule language or are no longer necessary. These include: delete definitions that duplicate statute or other regulations (4.021), delete unnecessary expired time periods for compliance (4.041), delete requirement for submitting 5 copies of petition for formal determination of wetlands and other surface waters, as unnecessarily burdensome (4.042(2)), delete duplicative restatement of § 373.421(5), F.S., (4.042(3)), delete repeat of § 403.813(1), F.S., permitting exemptions as duplicative of statute (4.051(9)), delete incorporation of Chapter 62-344, F.A.C., as no longer necessary (4.091(3)), delete unnecessary description of processing steps for permit applications (4.101), allow reactivation of expired permits to remove unnecessary burden (4.331), delete requirement that land use remain the same in order to transfer permits to new owners, as unnecessarily burdensome (4.351). Clarify application fee and provisions for modifications related to outparcel construction within permitted projects, to reduce permitting costs (4.331, 4.091)	Amendments mandated by §120.74, F.S., and EO 11-72
4.021, 4.041, 4.091, 4.321, 4.331(3), 40.040(1) & (3), 40.044, 40.302(5), 40.331(1), 40.381(2), ERP BOR & related rules	Elimination of Site Conditions Assessment Permits (SCAPs) and references to SCAPs, as no longer necessary. This type of permit has essentially been superseded by conceptual permits, which provide similar jurisdictional determinations of wetlands, other surface waters and other water-related geographic and geologic conditions, such as seasonal high elevations and floodplain determinations. Some minor amendments to conceptual permit provisions may be necessary to effectuate changes	Amendments mandated by §120.74, F.S., and EO 11-72
4.031, 4.054, 4.201, 4.461	Repeal Chapter 40D-4, F.A.C., rules identified in EO 11-01 report as no longer necessary, unduly burdensome or repetitive of statute or other regulations. These include: unnecessary statement of historical rule effective dates (4.031), duplicative rule stating that alterations of exempt systems may require a permit (4.054), duplicative rule stating that a fee is required for permit applications (4.201), duplicative rule citing statute for inspection of permitting systems (4.461)	Repeals mandated by §120.74, F.S., and EO 11-72
40.011, 40.031	Repeal Chapter 40D-40, F.A.C., rules identified in EO 11-01 report as no longer necessary, unduly burdensome or repetitive of statute or other regulations. These include unnecessary policy statement (40.011) and unnecessary historical rule	Repeals mandated by §120.74, F.S., and EO 11-72

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	implementation dates (40.031)	
400.021	Amend Chapter 40D-400, F.A.C., rule identified in EO 11-01 report as duplicative of statutory definitions	Amendments mandated by §120.74, F.S., and EO 11-72
400.201	Repeal rule identified in EO 11-01 report as duplicative of statutory language concerning policy and purpose of noticed general permits	Repeals mandated by §120.74, F.S., and EO 11-72
4.101, 4.091, ERP BOR	Amendments to accept submittal of documents by licensed surveyors or landscape architects as authorized by law, to remove any unnecessary restrictions on these professions and potentially reduce costs for applicants and permittees.	Amendments comply with EO 11-72 objectives
Various	Amendments for statewide consistency with DEP and other WMDs	DEP directive
<b>CHAPTER 40D-8</b>	<b>WATER LEVELS AND RATES OF FLOW</b>	
	Pursuant to §373.042, F.S., and FLWAC Order No. APP-96-003, minimum flows for all surface watercourses and minimum aquifer and surface water levels must be established. Pursuant to § 373.042(2), F.S., the District must submit annually to DEP for review and approval a priority list and schedule for the establishment of minimum flows and levels for surface watercourses, aquifers and surface waters within the District. This Chapter sets forth the MFLs adopted by the Governing Board. Compliance with the DEP-approved priority list is deemed to be compliance with the requirement to adopt MFLs for all water bodies.	
8.041	Adopt minimum flows for Chassahowitzka River Systems and Springs as required by § 373.042, F.S.	2010 priority list
8.041	Adopt minimum flows for Homosassa River System and Springs as required by § 373.042, F.S.	2010 priority list
8.041	Adopt minimum flows for Upper and Middle Withlacoochee River System as required by § 373.042, F.S.	2010 priority list
8.041	Adopt minimum flows for Lower Myakka River System as required by § 373.042, F.S.	2010 priority list
8.624	Adopt minimum levels for Polk County Lakes Lowery and Hancock as required by § 373.042, F.S.	2011 priority list
8.041	Adopt minimum flows for Little Manatee River System as required by § 373.042, F.S.	2011 priority list
8.041	Adopt minimum flows for Crystal River System and Kings Bay Springs as required by § 373.042, F.S.	2011 priority list
8.041	Adopt minimum flows for Gum Springs Group as required by § 373.042, F.S.	2011 priority list
8.624	Adopt minimum levels for Hillsborough County Lakes Carroll, Hooker, Raleigh,	2011 priority list

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	Rogers, Starvation and Wimauma as required by § 373.042, F.S.	
8.041	Adopt minimum flows for Lower Withlacoochee River System as required by § 373.042, F.S.	2011 priority list
8.041	Adopt minimum flows for Rainbow River and Springs as required by § 373.042, F.S.	2011 priority list
8.041	Adopt minimum levels for Marion County Lakes Bonable, Little Bonable and Tiger as required by § 373.042, F.S.	2011 priority list
8.041	Adopt “middle” and “high” minimum flows for Upper Peace River as required by § 373.042, F.S.	2011 priority list
8.041	Adopt minimum flows for Brooker Creek as required by § 373.042, F.S.	2011 priority list
8.041	Adopt minimum flows for Pithlaschascotee River System as required by § 373.042, F.S.	2011 priority list
<b>CHAPTER 40D-9</b>	<b>DISTRICT LAND USE RULES</b>	
	<i>Pursuant to § 373.1391, F.S., the District is required to manage and maintain its lands in such a way as to ensure a balance between public access, general public recreational purposes, and restoration and protection of the land’s natural state and condition. The District is authorized to adopt rules relating to allowable activities on District-owned lands; the amount of fees, licenses or other use charges; use of volunteers; payments in lieu of taxes; and cooperative land management agreements. The District’s land use rules must be submitted to the legislature for review prior to becoming effective. The legislature may reject, modify or take no action relative to the rules.</i>	
9.101, 9.110, 9.300, 9.310	Repeal rules identified in the District’s EO 11-01 report as unnecessarily burdensome, duplicative of statutory or other rule language or are no longer necessary. These include: statement of recreational land use policy that restates various statutes (9.101), unnecessary statement of accessibility to District lands (9.110), duplicative statutory trespass prohibition (9.300), duplicative statutory penalties (9.310)	Repeals mandated by §120.74, F.S., and EO 11-72
9.230	Amendment to conform District rule to new legislation preempting all firearms regulation	Mandated by 2011-109, LOF (HB 45)
<b>CHAPTER 40D-21</b>	<b>WATER SHORTAGE PLAN</b>	
	<i>§373.246, F.S., requires the District to promulgate a Water Shortage Plan. The purposes of the plan are to protect waters of the District from serious harm; establish procedures and responses that prevent undue hardship and ensure equitable</i>	

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	<i>distribution of available water resources during times of shortage; and provide knowledge of the means by which water apportionments and reductions will be made during times of shortage as a means of promoting greater security for water use permittees. This chapter contains the required plan.</i>	
21.031, 21.441	Repeal rules identified in the District's EO 11-01 report as unnecessarily burdensome, duplicative of statutory or other rule language or are no longer necessary. These include: delete unnecessary description of the contents for each plan section (21.031), delete unnecessarily burdensome requirement for submittal of mitigation plans for public supply water shortages (21.441)	Repeals mandated by §120.74, F.S., and EO 11-72
Various	Complete rulemaking to refine plan requirements based on recent water shortages, to eliminate unnecessary provisions and streamline procedures	Amendments mandated by §120.74, F.S., and EO 11-72
<b>CHAPTER 40D-22</b>	<b>YEAR-ROUND WATER CONSERVATION MEASURES</b>	
	<i>Pursuant to § 373.171, F.S., the District is authorized to adopt rules affecting the use of water, as conditions warrant, and forbidding the construction of new or the modification of existing water withdrawal, diversion and storage facilities; or apportioning, limiting or rotating water uses as needed. This rule chapter supports the water use permitting program required by §373.216, F.S., and is intended to promote long-term sustainability of the water resources through water use efficiency by regulatory means during times when no water shortage has been declared. This chapter contains the District's watering restrictions.</i>	
Various	Complete rulemaking on Board-approved amendments to streamline the variance and waiver process	Amendments mandated by §120.74, F.S.

6/28/11