

Notice of Proposed Rule

WATER MANAGEMENT DISTRICTS

Southwest Florida Water Management District

RULE NOS.:RULE TITLES:

40D-2.091 Publications and Forms Incorporated by Reference

40D-2.801 Water Use Caution Areas

PURPOSE AND EFFECT: The purpose is to remove references to the Comprehensive Environmental Resources Recovery Plan for the Northern Tampa Bay Water Use Caution Area, which sunset on December 31, 2020, and is being removed by separate rulemaking.

SUMMARY: The Comprehensive Environmental Resources Recovery Plan for the Northern Tampa Bay Water Use Caution Area, sunset on December 31, 2020. This rulemaking is to remove sunsetted rule language. Rule 40D-2.091(1)(a) must be revised to incorporate an updated version of the District's WUP Applicant's Handbook Part B, which is being revised to remove references to the Comprehensive Plan. Rule 40D-2.801 will be amended to remove references to the Comprehensive Plan. Rule 40D-80.073 is also being revised via separate rulemaking to remove the expired Comprehensive Plan.

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 District conducted an economic review of the revisions to the rule and determined that the impact or regulatory cost, if any, of the revisions will not exceed any one of the economic analysis criteria in a SERC as set forth in Section 120.541(2)(a), F.S. Regarding the "adverse impact to small business" threshold for requiring the development of a SERC, it is not anticipated that the rule revisions will have an adverse impact on small businesses and will not require the development of a SERC on this basis. Regarding the "\$200,000 increase in regulatory costs within one year of implementation" threshold for requiring the development of a SERC, the proposed rule revisions are not expected to lead to increased transactional costs to existing permittees, new applicants, or those seeking to revise existing Water Use Permits within 1 year of implementation. Therefore, the development of a SERC is not required.

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 F.S.

LAW IMPLEMENTED: 373.036, 373.0363, 373.042, 373.0421, 373.079(4)(a), 373.083(5), 373.116, 373.117, 373.1175, 373.118, 373.149, 373.171, 373.185, 373.216, 373.217, 373.219, 373.223, 373.227, 373.228, 373.229, 373.236, 373.239, 373.243, 373.250, 373.705, 373.709, 373.715 FS

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: Adrienne Vining, Assistant General Counsel, SWFWMD, 7601 U.S. Highway 301 North, Tampa, Florida 33637, (813)985-7481 ext. 4668

THE FULL TEXT OF THE PROPOSED RULE IS:

40D-2.091 Publications and Forms Incorporated by Reference.

(1) The following publications are hereby incorporated by reference into this chapter, and are available from the District's website at www.WaterMatters.org or from the District upon request:

(a) Water Use Permit Applicant's Handbook Part B (also referred to as the WUP Applicant's Handbook) (rev.

44/19), ([https://www.flrules.org/Gateway/reference.asp?No=Ref-11553](https://www.flrules.org/Gateway/reference.asp?No=Ref-https://www.flrules.org/Gateway/reference.asp?No=Ref-11553)).

(b) No change.

(2) through (3) No change.

Rulemaking Authority 373.044, 373.113, 373.118, 373.171 FS. Law Implemented 373.036, 373.0363, 373.042, 373.0421, 373.079(4)(a), 373.083(5), 373.116, 373.117, 373.1175, 373.118, 373.149, 373.171, 373.185, 373.216, 373.217, 373.219, 373.223, 373.227, 373.228, 373.229, 373.236, 373.239, 373.243, 373.250, 373.705, 373.709, 373.715 FS. History—New 10-1-89, Amended 11-15-90, 2-10-93, 3-30-93, 7-29-93, 4-11-94, 7-15-98, 7-28-98, 7-22-99, 12-2-99, 8-3-00, 9-3-00, 4-18-01, 4-14-02, 9-26-02, 1-1-03, 2-1-05, 10-19-05, 1-1-07, 8-23-07, 10-1-07, 10-22-07, 11-25-07, 12-24-07, 2-13-08, 2-18-08, 4-7-08, 5-12-08, 7-20-08, 9-10-08, 12-30-08, 1-20-09, 3-26-09, 7-1-09, 8-30-09, 10-26-09, 11-2-09, 1-27-10, 4-27-10, 5-26-10, 6-10-10, 6-30-10, 6-16-11, 12-12-11, 10-14-12, 2-7-13, 2-18-13, 5-19-14, 9-29-15, 4-2-17, 2-18-20, ____.

40D-2.801 Water Use Caution Areas.

(1) through (2) No change.

(3) The regions described in this rule have been declared WUCAs by the District Governing Board. This rule reaffirms the declaration of WUCAs and creates conditions to be applied to water users in those areas.

(a) No change.

(b) Southern Water Use Caution Area (SWUCA). To address lowered lake levels, stream flows and ground water levels, water quality degradation and adverse impacts to water users, the Governing Board declared all or portions of Manatee, Sarasota, DeSoto, Hardee, Charlotte, Highlands, Hillsborough and Polk Counties within the District's boundaries a WUCA on October 26, 1992, pursuant to Resolution Number 92-10.

1. through 4. No change.

5. Any permit with a withdrawal point located within the boundaries of the SWUCA is deemed to be within the SWUCA. Permits with permitted withdrawals in more than one (1) WUCA shall be subject to the conservation and reporting requirements of the WUCA within which the majority of permitted quantities are withdrawn, or projected to be withdrawn, in addition to all other rule criteria, including MFL requirements, as set forth in Chapter 40D-2, F.A.C., and the WUP Applicant's Handbook Part B. ~~Nothing in the rules and WUP Applicant's Handbook Part B specific to the SWUCA shall be interpreted or applied in any manner that would interfere with the Comprehensive Plan for the Northern Tampa Bay Area as outlined in Rule 40D 80.073, F.A.C.~~

6. through 7. No change.

(c) Dover/Plant City Water Use Caution Area. To address adverse impacts to water users and offsite land uses due to groundwater withdrawals during frost/freeze events, the Governing Board has established portions of Hillsborough and Polk Counties as a WUCA effective as of 6-16-11.

Figure 2-1 No Change.

Figure 2-2 No Change.

1. through 3. No change.

4. Any permit with a withdrawal point located within the boundaries of the Dover/Plant City WUCA is deemed to be within the Dover/Plant City WUCA. Permits with permitted withdrawals in more than one WUCA shall be subject to the conservation and reporting requirements, if any, of the WUCA within which the majority of permitted quantities are withdrawn, or projected to be withdrawn, in addition to all other rule criteria, including MFL requirements, as set forth in Chapter 40D-2, F.A.C., and the WUP Applicant's Handbook Part B. However, the Dover/Plant City WUCA provisions shall supersede any other rule criteria that creates conflicting or more stringent requirements. ~~Nothing in the rules and the WUP Applicant's Handbook Part B specific to the Dover/Plant City WUCA shall be interpreted or applied in any manner that would interfere with the Comprehensive Plan for the Northern Tampa Bay Area as outlined in Rule 40D 80.073, F.A.C.~~

5. through 6. No change.

Figure 2-3 No change.

Rulemaking Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.042, 373.0421, 373.171, 373.216, 373.219, 373.223 FS. History—New 10-5-74, Formerly 16J-3.30, Amended 10-1-89, 11-15-90, 3-1-91, 7-29-93, 1-1-03, 1-1-07, 10-1-07, 2-13-08, 4-7-08, 5-26-10, 6-16-11, 10-14-12, 5-19-14, ____.

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: March 23, 2021

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: April 14, 2021