

ST. JOHNS RIVER WATER MANAGEMENT DISTRICT

NOTICE OF PROPOSED RULE DEVELOPMENT

RULE NO.:	RULE TITLE:
<u>40C-2.100</u>	<u>Content and Processing of Applications</u>
40C-2.101	Publications Incorporated by Reference
40C-2.301	Conditions for Issuance of Permits
40C-2.900	Forms and Instructions

PURPOSE AND EFFECT: The purposes and effects of the proposed rule amendments are to: (1) require that when a CUP application is requesting authorization to use water to irrigate landscape, golf course, or recreational areas for a project that will require a 40C-4 or 40C-40 environmental resource permit (ERP) that such applicant must also apply concurrently for the ERP; (2) require that such concurrent CUP and ERP applications will be reviewed by the District in a consolidated manner, with the CUP application not being considered complete until the ERP application is also complete, and if either application fails to meet the conditions for issuance then both the CUP and ERP applications will be denied; (3) clarify that at a preapplication conference, the District will also be available to discuss consolidated review of any related ERP application; (4) establish that a CUP application must either be submitted electronically via the District's website or delivered to the address indicated on the application form and clarify the content and processing of CUP applications; (5) require that when a CUP application requires a concurrent ERP application submittal that the applicant must submit the required ERP application and all appropriate permit processing fees; (6) amend the conditions for issuance in 40C-2.301, F.A.C., to reflect the new requirements regarding consolidated review of CUP and ERP applications (no text is available yet for the proposed change to 40C-2.301); (7) revise the CUP application form to update the contents and include the concurrent application requirements.

SUBJECT AREA TO BE ADDRESSED: The proposed rule amendment would: (1) require, for a CUP application to irrigate landscape, golf course, or recreational areas for a project that will require a 40C-4 or 40C-40 ERP to construct a system, a concurrent ERP application and concurrent review and processing of both applications; (2) clarify application processing requirements; and (3) clarify preapplication conferencing.

RULEMAKING AUTHORITY: 369.318, 373.044, 373.113, 373.118, 373.171, F.S.

LAW IMPLEMENTED: 369.318, 373.1131, 373.219, 373.223, 373.226, 373.229, F.S.

RULE DEVELOPMENT WORKSHOPS WILL BE HELD AT THE DATES, TIMES AND PLACES SHOWN BELOW:

TIME AND DATE: 1:00 p.m. till 5:00 p.m., September 16, 2010.

PLACE: East Central Florida Regional Planning Council, 309 Cranes Roost Blvd., Altamonte Springs, Florida 32701.

TIME AND DATE: 1:00 p.m. till 5:00 p.m., September 17, 2010.

PLACE: Florida Department of Environmental Protection, 7825 Baymeadows Way, Jacksonville, Florida 32256.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Wendy Gaylord, Rules Coordinator, St. Johns River Water Management District, Office of General Counsel, 4049 Reid Street, Palatka, Florida 32177, (386) 326-3026, or wgaylord@sjrwmd.com.

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

40C-2.100 Content and Processing of Applications.

(1) Consumptive use permit applications shall be filed and processed in accordance with Chapters 120 and 373, F.S., Chapters 40C-1, 40C-2, 40C-20, and 40C-22, F.A.C., and the Applicant's Handbook: Consumptive Uses of Water adopted by reference in rule 40C-2.101, F.A.C.

(2) Each application for an individual or standard general consumptive use permit shall be filed upon District form no. 40C-2-1082-1. The application must either be submitted electronically via the District website at www.sjrwmd.com or delivered to the address indicated on the form.

(3) When a consumptive use permit applicant is requesting authorization to irrigate landscape, golf course, or recreational areas for a project that will require an individual or standard environmental resource permit to construct a surface water management system under paragraph 40C-4.041(2)(b), F.A.C., the consumptive use permit applicant must also concurrently submit an application for the environmental resource permit for the system.

Rulemaking Authority 369.318, 373.044, 373.118, 373.171 FS. Law Implemented 369.318, 373.1131, 373.219, 373.223, 373.226, 373.229 FS. History--New _____.

40C-2.101 Publications Incorporated by Reference.

(1) The Governing Board hereby adopts by reference Parts I, II and III, the "Water Conservation Public Supply" requirements in Appendix I, and "Legal Description of the Central Florida Coordination Area of the St. Johns River Water Management District" in Appendix L of the document entitled "Applicant's Handbook, Consumptive Uses of Water", (effective date) ~~3-8-09~~. The purpose of the document is to provide information regarding the policy, procedure, criteria, and conditions that pertain to the District's administration of the consumptive use permitting

program.

(2) No change.

Rulemaking Authority 369.318, 373.044, 373.113, 373.118, 373.171 FS. Law Implemented 369.318, 373.073, 373.079, 373.103, 373.109, 373.1131, 373.196, 373.219, 373.223, 373.229, 373.233, 373.236, 373.239, 373.250, 373.62 FS. History–New 1-1-83, Amended 5-31-84, Formerly 40C-2.101, 40C-2.0101, Amended 10-1-87, 1-1-89, 8-1-89, 10-4-89, 7-21-91, 7-23-91, 11-12-91, 9-16-92, 1-20-93, 12-6-93, 2-15-95, 7-10-95, 4-25-96, 10-2-96, 1-7-99, 2-9-99, 4-10-02, 2-15-06, 2-13-08, 8-12-08, 3-8-09, _____.

40C-2.900 Forms and Instruction.

(1) Individual and Standard General Consumptive Use Permit Application, form number 40C-2-1082-1, effective (effective date) ~~1-7-99~~, is hereby incorporated by reference.

(2) through (3) No change.

Rulemaking Authority 369.318, 373.044, 373.113, 373.118 FS. Law Implemented 369.318, 373.109, 373.116, 373.118, 373.1131, 373.219, 373.229 FS. History–New 5-30-90, Amended 7-21-91, 7-23-91, 1-20-93, 2-15-95, 4-25-96, 10-2-96, 1-7-99, 2-15-06, 3-8-09, _____.

APPLICANT’S HANDBOOK SECTION:

4.1 Preapplication Conference

4.1.1 At the applicant's request, District staff will arrange for and participate in a preapplication conference. At a preapplication conference the staff will be prepared to discuss with the applicant such information as:

- (a) application completion, processing and evaluation procedures;
- (b) hydrologic information which will be required for evaluation of the application (see Section 14.0 of this Handbook);
- (c) hydrologic information which is available at that time;
- (d) the criteria which will be utilized in evaluation of the application; ~~and~~
- (e) consolidated review of environmental resource permit application (if applicable); and
- (fe) other hydrologic, environmental or water quality concerns known to the staff, based on published reports and available information.

4.2 Forms and Instructions

4.2.1 The form for application for an individual and standard general consumptive use permit has been adopted as a rule in Section 40C-2.900, F.A.C. A copy of the form is included in Appendix C of this Handbook. The form must be used for the application for a permit as well as application for a modification, renewal or temporary use. An application which includes a request for a temporary use permit must be accompanied by a letter stating why such a permit is needed.

4.2.2 When a consumptive use permit applicant is requesting authorization to irrigate landscape, golf course, or recreational areas for a project that will require an individual or standard environmental resource permit to construct a surface water management system under paragraph 40C-4.041(2)(b), F.A.C., the consumptive use permit applicant must also concurrently submit an application for the environmental resource permit for the system.

4.6 Checklist for Application Completeness

The following items must be submitted at the time of an application:

- (a) an application form with all spaces filled in;
- (b) the application fee;
- (c) a listing of adjacent property owners as prescribed in subsection 4.4.1 of this Handbook; ~~and~~
- (d) a water conservation plan, if applicable under section 12.0, Applicant's Handbook: Consumptive Uses of Water-; and
- (e) an environmental resource permit if concurrent review requirements are applicable (see subsection 4.2.1 of this Handbook).

5.0 Procedures for Processing

5.2 Initial Receipt

5.2.1 When the application form is completed and signed, it must either be submitted electronically via the District website at www.sjrwm.com or delivered to the address indicated on the form. The application should include any supporting documentation, and the appropriate permit processing fee (see Section 4.6 for completion checklist).

5.2.2 When a consumptive use permit applicant is requesting authorization to irrigate landscape, golf course, or recreational areas for a project that will

require an individual or standard environmental resource permit to construct a surface water management system under paragraph 40C-4.041(2)(b), F.A.C., the consumptive use permit applicant must also concurrently submit an application for the environmental resource permit for the system.

Renumber 5.2.2 to 5.2.3 No change.

5.3 Request for Additional Information

5.3.1 The first step of this review process is to determine if all the technical data needed for a complete review of the application has been provided. In most cases the information requested on the application form is sufficient to evaluate the use against the criteria listed in Part II of this Handbook. In those cases where the information is not sufficient, the District staff will request that the additional information be supplied and will inform the applicant as to the reason that such information is required. The type and amount of information varies, depending upon the impact of the proposed use. Examples of data that may be required include:

historical records (withdrawals and water quality),

well construction data,

well logs,

aquifer pumping tests,

well surveys,

projections of future use,

information supporting need for quantities requested, and

information regarding any permits required under the provisions of Chapter 40C-4 , F.A.C., which may impact upon, or be impacted by the use.

5.3.2 When a consumptive use permit applicant must submit a concurrent environmental resource permit application, the review of these two applications will be consolidated and the consumptive use permit application will not be considered complete until the District has also received all of the information necessary to complete the required environmental resource permit application.

Renumber 5.3.2 through 5.3.4 to 5.3.3 through 5.3.5 No change.

5.4 Individual Permits

5.4.1.1 When the individual permit application is complete, the staff will commence with the technical review of the application. Criteria used in the evaluation are defined and discussed in Part II of this Handbook.

When a consumptive use permit applicant is required to submit a concurrent environmental resource permit, the review of these applications is consolidated and the District will not issue the consumptive use permit unless the permitting criteria applicable to the environmental resource permit application are also satisfied. If the applicant fails to meet the criteria for either the consumptive use permit or the environmental resource permit, then both permit applications will be denied.

5.5 Standard General Permits

5.5.1 ~~The requirements for a standard general permit are: Standard general permits differ from individual permits in that they are granted by rule to all non-exempt consumptive uses which meet the following requirements:~~

- (a) The proposed consumptive use must not exceed 500,000 gallons per day on an average annual basis.
- (b) The criteria in section 40C-2.301, F.A.C., must be met.
- (c) The person who seeks a standard general permit must submit a complete permit application form 40C-2-1082-1 to the District at least 30 days prior to undertaking the consumptive use and must receive the permit prior to commencing the withdrawal.

(d) When a person who seeks a standard general consumptive use permit must also submit a concurrent environmental resource permit, the environmental resource permit must meet the permitting criteria in Chapter 40C-4, F.A.C. (see subsections 4.2.2 and 5.2.2 of this Handbook).

5.5.2 and 5.5.3 No change.

5.5.4 Staff Evaluation

5.5.4.1 Upon completion of the standard general permit application, the staff will technically review the application using the criteria defined and discussed in Part II of this Handbook.

When a consumptive use permit applicant is required to submit a concurrent environmental resource permit, the review of these applications is consolidated and the District will not issue the consumptive use permit unless the permitting criteria applicable to the environmental resource permit application are also satisfied. If the applicant fails to meet the criteria for either the consumptive use permit or the environmental resource permit, then both permit applications will be denied.

9.4 Reasons for Recommendation of Denial

9.4.1 A permit will also be denied if, at the time of permit consideration, a proposed use is not a reasonable-beneficial use, will interfere with presently existing use, or is not in the public interest as described in Sections 9.1, 9.2 or 9.3 above or if the applicant fails to meet the criteria for issuance of the environmental resource permit when the concurrent submittal of an environmental resource permit is required. As a complement to the criteria described in 9.1, 9.2 and 9.3 above, the Governing Board has established that certain conditions, by their very nature, will not meet the three tests for issuance of a permit. These are described in subsections 9.4.2 – 9.4.7 below. These six conditions are of such significance that they are listed as reasons for denials. The six conditions are:

(a) through (f) No change.

11.0 Evaluation Criteria for Other Types of Applications

11.1 through 11.3.2 No change.

11.4 Concurrent Review of Environmental Resource Permit Application

When a consumptive use permit applicant is requesting authorization to irrigate landscape, golf course, or recreational areas for a project that will require an individual or standard environmental resource permit to construct a surface water management system under paragraph 40C-4.041(2)(b), F.A.C., the consumptive use permit applicant must also concurrently submit an application for the environmental resource permit for the system. The review of these applications is consolidated and the District will not issue the consumptive use permit unless the permitting criteria applicable to the environmental resource permit application are also satisfied. If the applicant fails to meet the criteria for either the consumptive use permit or the environmental resource permit, then both permits will be denied.