

DEPARTMENT OF ENVIRONMENTAL PROTECTION

RULE NO.: RULE TITLE:

62-41.400: Outstanding Florida Springs, Scope of Rules

62-41.401: Outstanding Florida Springs, Uniform Definition of Harmful to the Water Resources

62-41.402: Outstanding Florida Springs, Uniform Conditions for Issuance of Permits

62-41.400 Outstanding Florida Springs, Scope of Rules and Definitions

(1) Rules 62-41.400 through 62-41.402, F.A.C., implement section 373.219, F.S. These supplemental rules provide the basis for the evaluation of consumptive uses of water to ensure they are not harmful to an Outstanding Florida Spring or its spring run as defined in subsections 373.802(5) and 373.802(8), F.S.

(2) The phrases “Consumptive Use Permit,” “Consumptive Use Permitting,” and “Consumptive Use Applicants” are synonymous with “Water Use Permit,” “Water Use Permitting,” and “Water Use Applicants,” respectively, as used by agencies implementing Part II of Chapter 373, F.S.

(3) “Agency” or “agencies” means the Department of Environmental Protection and the water management districts as entities with the authority to implement Part II of Chapter 373, F.S.

(4) These supplemental rules shall be utilized as minimum standards in the evaluation of consumptive use permits to ensure they are not harmful to an Outstanding Florida Spring or its spring run. The agencies shall implement these supplemental rules in conjunction with their consumptive use permitting or water use permitting rules upon determination that a proposed water use potentially impacts an Outstanding Florida Spring. The agencies shall update their rules as necessary to be consistent with these minimum standards.

(5) These supplemental rules do not prohibit an agency from adopting a definition of the term “harmful to the water resources” that is more protective of the water resources consistent with local or regional conditions and objectives.

Rulemaking Authority: 373.016, 373.026, 373.0421, 373.043, 373.171, 373.216, 373.217, 373.219, 373.223, 373.2234, 373.801, 373.802, 373.813, FS. Law Implemented: 373.219, 373.802, FS. New: xx-xx-xxxx.

62-41.401 Outstanding Florida Springs, Uniform Definition of Harmful to the Water Resources

(1) Harmful to the Water Resources for Outstanding Florida Springs means a consumptive use that adversely impacts an Outstanding Florida Spring or its spring run in one or more of the following ways:

(a) Causing harmful water quality impacts to the Outstanding Florida Spring or its spring run resulting from the withdrawal or diversion;

(b) Causing harmful water quality impacts from dewatering discharge to the Outstanding Florida Spring or its spring run;

(c) Causing harmful saline water intrusion or harmful upconing to the Outstanding Florida Spring or its spring run;

(d) Causing harmful hydrologic alterations to natural systems associated with an Outstanding Florida Spring or its spring run, including wetlands or other surface waters; and

(e) Otherwise causing harmful hydrologic alterations to the water resources of the Outstanding Florida Spring or its spring run.

(2) Consistent with paragraph (1), the applicant shall provide reasonable assurance, using the best available information, that there are no adverse impacts caused by the withdrawal or diversion, on an individual or cumulative basis, to the extent that:

(a) The withdrawal or diversion does not induce movement of a contamination plume or alter the rate or direction of the movement of a contamination plume towards an Outstanding Florida Spring or its spring run such that the alteration causes harmful water quality impacts as evidenced by the predicted influence the water withdrawals would have on inducing movement of the contamination plume or as indicated by a sustained increase in background levels in contaminant concentrations.

(b) Dewatering discharges do not cause harmful water quality impacts to the Outstanding Florida Spring or its spring run. Dewatering water must be retained onsite unless the applicant demonstrates it is not technically or environmentally feasible to retain the dewatering water onsite. Applicants who have obtained and are in compliance with a National Pollutant Discharge Elimination System (NPDES) or Environmental Resource Permit (ERP) for dewatering shall be considered to not cause harmful water quality impacts from dewatering discharge to receiving waters.

(c) Withdrawals do not cause an increase in total dissolved solids (TDS) or chloride concentrations that adversely affects the Outstanding Florida Spring or its spring run. The agencies will not consider saline water intrusion as harmful if it is the result of seasonal fluctuations; climatic conditions; or operation of the Central and Southern Flood Control Project, secondary canals, or stormwater systems. As part of the consideration of whether the use will cause harmful saline water intrusion or upconing, the following factors must be considered, as applicable:

1. Whether there is a sustained amount and rate of increase of TDS or chloride concentrations in the Outstanding Florida Spring;

2. Whether there would be adverse impacts to values or functions of wetlands or other surface waters associated with an Outstanding Florida Spring or its spring run.

(d) Hydrologic alterations to the spring resulting from withdrawals do not cause adverse impacts to the aquatic or wetland dependent flora or fauna in the spring or its spring run.

(3) To provide reasonable assurance that harm to the water resources will not occur due to the proposed water withdrawal or diversion, the following information shall be submitted as applicable:

(a) An assessment inclusive of any predicted hydrologic alterations to an Outstanding Florida Spring or its spring run caused by the withdrawal or diversion. The assessment will include any predicted changes in hydrology, or changes in aquatic or wetland flora or fauna at an Outstanding Florida Spring or its spring run. An applicant shall only be required to address its relative contribution of harm to the Outstanding Florida Spring or its spring run associated with its water withdrawal.

(b) A summary of any monitoring or modeling analysis performed and electronic copies of any modeling files.

(c) Any additional materials utilized in the analysis to provide reasonable assurance that harm, as defined above, will not occur due to the withdrawal or diversion, including aerial photographs, topographic maps, hydrologic data, environmental assessments, or other relevant information.

Rulemaking Authority: 373.016, 373.026, 373.0421, 373.043, 373.171, 373.216, 373.217, 373.219, 373.223, 373.2234, 373.801, 373.802, 373.813, FS. Law Implemented: 373.219, FS. New: xx-xx-xxxx.

62-41.402 Outstanding Florida Springs, Uniform Conditions for Issuance of Permits

(1) No permit issued by the agencies for the consumptive use of water shall authorize groundwater withdrawals that are harmful to the water resources as provided in paragraph (3)(g), and each permittee shall meet the criteria established in section 62-41.401, F.A.C.

(2) In order to prevent groundwater withdrawals that are harmful to an Outstanding Florida Spring, an applicant seeking a consumptive use permit, renewal, or modification, whose withdrawal potentially impacts an Outstanding Florida Spring or its spring run must provide reasonable assurance that the proposed consumptive use of water, on an individual and cumulative basis:

(a) Is a reasonable-beneficial use;

(b) Will not interfere with any presently existing legal use of water; and

(c) Is consistent with the public interest.

(3) In order to provide reasonable assurances that the consumptive use is reasonable-beneficial, an applicant shall demonstrate that the consumptive use:

(a) Is a quantity that is necessary for economic and efficient use;

(b) Is for a purpose and occurs in a manner that is both reasonable and consistent with the public interest;

(c) Will utilize a water source that is suitable for the consumptive use;

(d) Will utilize a water source that is capable of producing the requested amount;

(e) Will utilize the lowest quality water source that is suitable for the purpose and is technically, environmentally, and economically feasible, except for the following agricultural water uses;

1. Water used for washing hands during and after harvest activities;

2. Water that is applied in any manner that directly contacts produce during or after harvest activities (for example, water applied for washing or cooling); and

3. Water used to make ice that directly contacts produce during or after harvest activities.

(f) Will not cause harm to existing offsite land uses resulting from hydrologic alterations;

(g) Will not cause harm to an Outstanding Florida Spring or its spring run in any of the following ways:

1. Will not cause harmful water quality impacts to an Outstanding Florida Spring or its spring run resulting from the withdrawal or diversion;

2. Will not cause harmful water quality impacts from dewatering discharge to an Outstanding Florida Spring or its spring run;

3. Will not cause harmful saline water intrusion or harmful upconing to an Outstanding Florida Spring or its spring run;

4. Will not cause harmful hydrologic alterations to an Outstanding Florida Spring or its spring run; and

5. Will not otherwise cause harmful hydrologic alterations to an Outstanding Florida Spring or its spring run;

(h) Is in accordance with any minimum flow or level and implementation strategy established pursuant to sections 373.042 and 373.0421, F.S.; and

(i) Will not use water reserved pursuant to subsection 373.223(4), F.S.

Rulemaking Authority: 373.016, 373.026, 373.0421, 373.043, 373.171, 373.216, 373.217, 373.219, 373.223, 373.2234, 373.801, 373.802, 373.813, FS. Law Implemented: 373.219, 373.223, FS. New: xx-xx-xxxx.

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