

## Notice of Proposed Rule

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

RULE NO: RULE TITLE

[40D-2.091](#): Publications Incorporated by Reference[40D-2.101](#): Content of Application

**PURPOSE AND EFFECT:** The purpose of this rulemaking is to adopt and incorporate by reference a new Water Use Permit Application Form – Mining and Dewatering, Form No. LEG-R.032.01 (5/09). The effect will be that applicants will submit only one detailed water use permit application form for mining and dewatering uses instead of submitting an application form for an Individual or General water use permit and a supplemental form for providing more specific information on activities relating to mining and dewatering water uses.

**SUMMARY:** The District is revising all of its Water Use Permit application forms in coordination with efforts to enhance electronic permitting capabilities through the District’s Water Management Information System, or WMIS, which has recently been expanded to allow electronic applications for all types of water use permits. The District is adopting a new form, Water Use Permit Application – Mining and Dewatering, Form No. LEG-R.032.01 (5/09) which is being incorporated by reference into Rule 40D-2.101, F.A.C. The new form will also be listed in Rule 40D-1.659, F.A.C., which lists all approved District forms. An updated Water Use Permit Information Manual Part B, “Basis of Review,” is also incorporated by reference in Rule 40D-2.091, F.A.C. The special permit conditions for mining-related permits as set forth in Section 6.2 of the District’s Basis of Review are revised to allow for submittal of ground and surface water levels referenced to North American Vertical Datum (NAVD) 1988 in addition to National Geodetic Vertical Datum (NGVD) 1929, as is allowed on the newly adopted form.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS:** No Statement of Estimated Regulatory Cost was prepared.

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.

**SPECIFIC AUTHORITY:** [373.044](#), [373.113](#), [373.118](#), [373.171 FS](#).

**LAW IMPLEMENTED:** [373.036](#), [373.0361](#), [373.042](#), [373.0421](#), [373.0831](#), [373.116](#), [373.117](#), [373.118](#), [373.149](#), [373.171](#), [373.1963](#), [373.216](#), [373.219](#), [373.223](#), [373.229](#), [373.239](#), [373.243 FS](#).

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN FAW.

**THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS:** Martha A. Moore, Senior Attorney, Office of General Counsel, 2379 Broad Street, Brooksville, FL 34604-6899, (352)796-7211, ext. 4660

**THE FULL TEXT OF THE PROPOSED RULE IS:**

40D-2.091 Publications Incorporated by Reference.

The following publications are hereby incorporated by reference into this Chapter, and are available from the District upon request:

- (1) Water Use Permit Information Manual Part B, “Basis of Review (\_\_\_\_\_) (~~01-20-09~~); and
- (2) No change.

**WATER USE PERMIT INFORMATION MANUAL  
PART B – BASIS OF REVIEW**

**6.2 SPECIAL PERMIT CONDITIONS  
REPORTING**

**16. Ground Water Level Monitoring**

**Condition:** The Permittee shall monitor water levels in the \_\_\_\_\_ (specified) aquifer(s). Reports of the data shall be submitted to the District, in a form acceptable to the District. All data shall be referenced to National Geodetic Vertical Datum (NGVD) 1929 or North American Vertical Datum (NAVD) 1988 as determined by the District. The frequency of water-level recording may be modified by the Director, Resource Regulation Department, as necessary to ensure the protection of the resource. Water levels in the wells shall be recorded for the specified District ID No., aquifer, and recording frequency. District ID No. Aquifer Recording Frequency Water levels shall

be recorded on a continuous hourly basis for those wells with a continuous recording frequency and on the same day of each week for those wells with a weekly recording frequency. The average of the 24-hour values (continuous recording) for each day shall be calculated, and only the average value for each day shall be reported to the District. The time and date that the water level is measured shall be reported with the data.

Discussion: This condition is used in situations such as those addressed in Section 5.4. The location(s) of each monitoring point is linked to the District I.D. No. by latitude-longitude.

### 6.3 MINING PERMIT CONDITIONS

#### 3. Dewatering Setbacks

Condition: Prior to dewatering within \_\_\_ ft of a property boundary, the Permittee shall comply with one of the following alternatives.

a. Secure written consent from all adjacent property users for lowering the water table below their lands. The consent shall be submitted in writing to the Director, Resource Regulation Department, prior to opening mining pits within the specified distance.

b. Implement a procedure to mitigate impacts by maintaining the water table at the property boundary at historic levels. This procedure must be approved by the Director, Resource Regulation Department, and shall include the following:

(6) Data collection shall continue for 6 months following completion of mining and reclamation or until District staff determine that background or steady-state levels are attained. During this time period, water-level data shall be recorded on a weekly basis and reported monthly. Water levels shall be reported in feet relative to the NGVD 29 or NAVD 88 as determined by the District.

~~Rulemaking Specific~~ Authority 373.044, 373.113, 373.118, 373.171 FS. Law Implemented 373.036, 373.0361, 373.042, 373.0421, 373.0831, 373.116, 373.117, 373.118, 373.149, 373.171, 373.1963, 373.216, 373.219, 373.223, 373.229, 373.239, 373.243 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,\_\_\_\_\_.

#### 40D-2.101 Content of Application.

(1) No change.

(2) The following District application forms shall be used to obtain a new Water Use Permit or to renew an existing Water Use Permit. All permit application forms described herein have been approved by the District Governing Board and are incorporated by reference into this Chapter. Forms are available upon request from ~~any District office or from~~ the District's website at [www.watmatters.org](http://www.watmatters.org) or from District offices.

(a) Individual Water Use Permit. Application for a new or renewal of an existing Individual Water Use Permit shall be made using the Individual Water Use Permit Application, Form No. LEG-R.029.00 (3/09). Applicants shall also submit one or more of the following Supplemental Forms as appropriate for each type of water use proposed in the permit application:

1. Water Use Permit Application Supplemental Form – Agriculture, Form No. LEG-R.030.00 (3/09).

2. Water Use Permit Application Supplemental Form – Industrial or Commercial, Form No. LEG-R.031.00 (3/09).

~~3. Water Use Permit Application Supplemental Form – Mining or Dewatering, Form No. LEG-R.032.00 (3/09).~~

~~3.4~~ Water Use Permit Application Supplemental Form – Public Supply, Form No. LEG-R.033.00 (3/09).

~~4.5~~ Water Use Permit Application Supplemental Form – Recreation or Aesthetic, Form No. LEG-R.034.00 (3/09).

(b) through (c) No change.

(d) Mining and Dewatering Water Use Permit. Application for a new or renewal of an existing Water Use Permit for mining and dewatering uses shall be made using the Water Use Permit Application – Mining and Dewatering, Form No. LEG-R.032.01 (5/09). The application shall be categorized as an application for an Individual or General Water Use Permit based upon the combined annual average daily water demand as provided in subsection 40D-2.041(2), F.A.C.

(3) through (4) No change.

~~Rulemaking Specific~~ Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.216, 373.229 FS. History--Readopted 10-5-74, Amended 10-24-76, 1-6-82, 2-14-82, Formerly 16J-2.06, Amended 10-1-89, 10-23-89, 2-10-93, 7-15-99, 1-1-03, 1-1-07, 11-25-07, 9-10-08,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Ken Weber, Water Use Regulation Program Director, Strategic Program Office, Resource Regulation Department, 2379 Broad Street, Brooksville, FL 34604-6899, (352) 796-7211, ext. 4303

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Southwest Florida Water Management

District Governing Board

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 20, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 5, 2009