

Appendix – FSC Proposed Draft Rule

62-41.400 Outstanding Florida Springs, Scope of Rules

(1) Rules 62-41.400 through 62-41.402, F.A.C., implement section 373.219(3), F.S. These rules regulate consumptive uses of water that impact an Outstanding Florida Spring springshed as defined in section 373.802(4), F.S.

(2) The phrases “Consumptive Use Permit,” “Consumptive Use Permitting,” or “Consumptive Use Applicants” are synonymous with “Water Use Permit,” “Water Use Permitting,” or “Water Use Applicants,” respectively, as used by the Districts.

Rulemaking Authority: 373.026, 373.219, 373.813, FS. Law Implemented: 373.219, 373.802, FS.

62-41.401 Outstanding Florida Springs, Uniform Conditions for Issuance of Permits

(1) In order to prevent groundwater withdrawals which are harmful to Outstanding Florida Springs, the governing board or Department shall presume a consumptive use permit application within the springshed of an Outstanding Florida Spring with an adopted Basin Management Action Plan pursuant to 373.807, F.S., or an adopted recovery or prevention strategy pursuant to 373.805, F.S. is not consistent with the public interest pursuant to 373.223(1)(c), F.S., unless:

(a) An application for a renewal or modification of an existing consumptive use permit reduces permitted water use to no more than 75 percent¹ of the permittee’s cumulative average daily water use as measured during the most recent three-year period, or concurrently offsets any groundwater withdrawals above the 75 percent threshold.

1. An applicant for a renewal or modification of an existing consumptive use permit may receive a temporary allocation, for a period not to exceed two years, to use up to the permittee’s cumulative average daily water use as measured during the most recent three-year period. The applicant must implement projects approved by the governing board or Department to meet the requirements of paragraph (a) within two years.

2. Two years from the date the temporary allocation is granted, the consumptive use permit shall be reduced to no more than 75 percent of the permittee’s cumulative average daily water use as determined in (1)(a).

3. The permittee may apply for a single extension of up to 1 year. The governing board or Department may grant the extension if the applicant provides reasonable assurances that the extension is clearly in the public interest.

¹ Percent reductions are a placeholder for the actual reductions necessary to achieve pre-1973 conditions.

4. If an applicant chooses to offset groundwater withdrawals, the applicant shall propose the retirement or reduction of existing consumptive use permits within the same Outstanding Florida Spring springshed. The applicant shall identify legal existing use allocations to be terminated or reduced and must demonstrate that water is available by providing documentation that the modification or retirement of the historic consumptive use permit is effective before issuance of the proposed permit.

(b.) An application for a new groundwater consumptive use permit includes an offset of at least 125% of the requested water use through the retirement or reduction of existing consumptive use permits within the same Outstanding Florida Spring springshed. The applicant shall identify legal existing use allocations to be terminated or reduced and must demonstrate that water is available by providing documentation that the modification or retirement of the historic consumptive use permit is effective before issuance of the proposed permit.

(2) An applicant granted a temporary allocation or consumptive use permit pursuant to this section shall monitor and report withdrawal quantities from each withdrawal facility or point of diversion to the applicable water management district no less than once every 90 days for the duration of the permit.

(3) If a permittee exceeds the temporary allocation or permitted amount over any 12-month period the governing board or Department shall immediately revoke the temporary allocation or consumptive use permit. A permittee may not apply for a new consumptive use permit, renew an existing permit, or modify an existing permit within the springshed of an Outstanding Florida Spring for a period of 10 years following the revocation of a permit for failing to meet the requirements of this section.

(4) An applicant for a renewal or modification of an existing consumptive use permit, which has previously met the requirements of this section and does not propose an increase in water use, shall be exempt from the requirements in this section.

62-41.402 Outstanding Florida Springs, Uniform Definition of Harmful to the Water Resources

“Harmful to the water resources” means a groundwater withdrawal which, in comparison to pre-1973 conditions of the system, on an individual or cumulative basis will:

(a) lead to increased concentrations of a pollutant of concern in an impaired Outstanding Florida Spring;

(b) contribute to the proliferation of algae in an Outstanding Florida Spring;

(c) reduce spring flow in an Outstanding Florida Spring;

(d) adversely impact fisheries, wildlife, or submerged vegetation in an Outstanding Florida Spring; or

(e) adversely affect the recreational values in an Outstanding Florida Spring.