

Consumptive Use Permitting Consistency (CUPcon)



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Why Consumptive Use Permitting Consistency? (CUPcon)

- CUP rules in each WMD are based on same statute, but have developed differently over time
- Confusing for applicants
- Problematic at borders between WMDs





CUPcon Review Goals

- Make program less confusing for applicants, particularly those who work in more than one District
- Treat applicants equitably statewide
- Consistent protection of the environment
- Streamlining of the process
- Incentivize behavior that protects water resources, including conservation





Initial Stakeholder Meetings - 2011

DATE	LOCATION	TIME	GROUP
November 16	SJRWMD-Maitland	1 - 3 pm	Self Supply/Small Commercial
November 17	SJRWMD-Maitland	10am - 12 noon	Public Water Supply
November 17	SJRWMD-Maitland	2:00 - 4 pm	Agriculture
November 29	DEP Central District - Orlando	10 am - 12 noon	Environmental
November 29	DEP Central District - Orlando	1:30 - 3:30 pm	Industrial
December 13	Tallahassee - Douglas Bldg.	10 am - 12 noon	Public Water Supply
December 13	Tallahassee - Douglas Bldg.	1:30 - 3:30 pm	Industrial
December 15	SFWMD - West Palm Beach	10 am - 12 noon	Public Water Supply
December 15	SFWMD - WPB	1:30 - 3:30 pm	Agriculture
December 16	SFWMD - WPB	9 - 11 am	Environmental



CUPcon Rulemaking

- Changes to DEP Rule 62-40, F.A.C., the State Water Resource Development Rule in Pre-phase (Feb. 2013)
- Changes to WMD Consumptive Use permitting rules
 - WMD Rulemaking to occur in several phases depending on complexity of issue.
 - Phase 1: Summer 2013
 - Phase 2: ~~December 2013~~ Summer 2014



CUPcon Rule Development Workshops - 2012

MEETING DATE	LOCATION	MEETING DATE	LOCATION
August 7	Live Oak	August 21	Kissimmee (Joint SF, SJR, and SWF)
August 8	Chiefland	August 22	Fort Myers
August 10	Palatka	August 23	West Palm Beach
August 15	Brooksville	August 31	Tallahassee
August 16	Tampa	September 24	Pensacola



Rule 62-40, F.A.C. – What is it?

- The Water Resource Implementation Rule (State Water Policy).
- Required by Sec. 373.036, F.S.
- WMD rules must be consistent with Rule 62-40, F.A.C. , per Section 373.036, F.S.
- Goals, objectives and guidance for DEP and WMDs for programs, rules and plans related to water resources.
- Amendments not effective until after next legislative session following rule adoption.



Rule 62-40, F.A.C. Revision Topics

- Codify key direction from 2011 DEP guidance memos to WMDs
 - No allocation reductions due to economic conditions/growth rates/different crop, unless no likelihood of allocation being needed permit term.
 - No reduction of allocation from water saved through conservation during permit term.
 - MFL recovery/prevention strategies to be adopted, if required, at same time as MFL.
 - MFL priority lists:
 - Identify which proposed MFLs have cross-district consequences
 - Include reservations of water on MFL priority lists



Rule 62-40, F.A.C. Revision Topics

- Reclaimed Water
 - Reuse credits/offsets (required by HB 639)
 - Supplementation of reuse systems (product of Reclaimed Water Policy Workgroup)
- ~~Standardize high level “Conditions of Issuance” for CUP permits~~



Rule 62-40 Rulemaking Schedule

- Rule Workshops held on revised 62-40 proposal:
 - November 14, 2012 – West Palm Beach
 - November 15, 2012 – Orlando
 - November 16, 2012 – Tallahassee
- December 21, 2012 - Submit Rule Package to OFARR
- December 31, 2012 - Notice of Proposed Rule published in Florida Administrative Register
- January 31, 2013 - Earliest Date for filing of final rule with Department of State
- Effective after passage of 2013 Legislative Session



First Phase of WMD Rulemaking

- Types of permits/thresholds
- Conditions for Issuance (40X-2.301, F.A.C.)
- Water conservation for PWS and agriculture
- Standard “limiting conditions” for permits
- Common structure of Applicant’s Handbook.
- Reuse supplementation, credits, offsets
- 10 -year compliance reports
- Pumpage reporting form





Schedule for First Phase of WMD Rulemaking

- February –May, 2013 – stakeholder workshops/meetings, rule revisions
- June/August , 2013 – Rule Adoption



Second/Future Phases of WMD Rulemaking August 2013- August 2014

- Demand allocations
- Application form
- Standard permit conditions by use type
- Compliance monitoring and forms
- Harm to wetlands/surface waters
- MFLs
- Modeling



Changes Resulting from Public Comment (so far...)

- Rule 62-40 will not include Conditions of Issuance.
 - WMDs will still include Conditions of Issuance in Phase 1
- Because of regional differences in well construction programs, SFWMD will use noticed general permits not no-notice general permits
- More opportunities for stakeholder interaction in Wave 2



Statewide ERP Rulemaking

- **December 14, 2012** Workshop #5 (Webinar)
- **Spring 2013** Finalize Rule, SERC, and Notice of Proposed Rule; seek Secretary approval and OFARR comments
- **Spring 2013** Publish NPR & Submit rule to Joint Administrative Procedures Committee (JAPC)
- **Spring 2013** Hearing (Tallahassee)
- **Spring 2013** Effective date of rule



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Questions ?

