

1 **62-40.410 Water Supply Protection and Management.**

2 The following shall apply when the use of water is regulated pursuant to Part II of Chapter 373,
3 F.S.:

4 (1) No permit shall be granted to authorize the use of water unless the applicant establishes
5 that the proposed use is a reasonable-beneficial use, will not interfere with presently existing legal
6 uses of water, and is consistent with the public interest.

7 (2) In determining whether a water use is a reasonable-beneficial use, the following factors
8 will be considered:

- 9 (a) The quantity of water requested for the use;
- 10 (b) The demonstrated need for the use;
- 11 (c) The suitability of the use to the source of water;
- 12 (d) The purpose and value of the use;
- 13 (e) The extent and amount of harm caused;
- 14 (f) The practicality of mitigating any harm by adjusting the quantity or method of use;
- 15 (g) Whether the impact of the withdrawal extends to land not owned or legally controlled by
16 the user;
- 17 (h) The method and efficiency of use;
- 18 (i) Water conservation measures taken and available to be taken;
- 19 (j) The feasibility of alternative sources such as reclaimed water, stormwater, aquifer storage
20 and recovery, brackish water and salt water;
- 21 (k) The present and projected demand for the source of water;
- 22 (l) The long-term yield available from the source of water;
- 23 (m) The extent of water quality degradation caused;
- 24 (n) Whether the proposed use would cause or contribute to flood damage;
- 25 (o) Whether the proposed use would significantly induce or increase saltwater intrusion;
- 26 (p) The amount of water which can be withdrawn without causing harm to the resource;
- 27 (q) Whether the proposed use would adversely affect public health; and
- 28 (r) Whether the proposed use would significantly affect natural systems.

29 (3) Water may be reserved from permit use in such locations and quantities, and for such
30 seasons of the year, as is required for the protection of fish and wildlife or the public health or
31 safety. Such reservations shall be subject to periodic review and revision in light of changed

32 conditions. However, all presently existing legal users of water shall be protected so long as such
33 use is not contrary to the public interest. Reservations shall be established in accordance with Rule
34 62-40.474, F.A.C.

35 (4) In implementing consumptive use permitting programs, the Department and the Districts
36 shall recognize the rights of property owners, as limited by law, to make consumptive uses of water
37 from their land, and the rights of other users, as limited by law, to make consumptive uses of water,
38 for reasonable-beneficial uses in a manner consistent with the public interest that will not interfere
39 with any presently existing legal use of water.

40 (5) Permits authorizing consumptive uses of water which cause unanticipated significant
41 adverse impacts on off-site land uses existing at the time of permit application, or on legal uses of
42 water existing at the time of permit application, shall be considered for modification, to curtail or
43 abate the adverse impacts, unless the impacts can be mitigated by the permittee.

44 (6) In implementing consumptive use permitting programs, the Department and Districts shall
45 strive to prevent harm to natural systems without the need for artificial maintenance of natural
46 systems by pumped groundwater augmentation. If groundwater augmentation is authorized,
47 reasonable assurance must be provided that such augmentation will not cause harm to natural
48 systems.

49 (a) In the adoption and implementation of consumptive use permitting rules regarding use of
50 pumped ground water to artificially maintain natural systems that otherwise would be adversely
51 affected by withdrawals for water supply, consideration shall be given to the following factors:

52 1. Whether there are other economically, environmentally, and technically feasible means to
53 avoid the impacts, including the use of alternative water sources, that would reduce or eliminate
54 the impact. In determining economic feasibility, the Department and Districts shall consider costs
55 and benefits;

56 2. The current condition of the natural system, and whether the system would be enhanced over
57 the current condition through augmentation;

58 3. The geographic extent of the system to be augmented; and

59 4. The amount of water made available for water supply compared to the amount required for
60 augmentation.

61 (b) The use of reclaimed water and recycled stormwater is encouraged in situations when the
62 augmentation of wetlands is conducted, where practical and consistent with water quality

63 protection.

64 (c) This paragraph is not intended to exclude other means to avoid or mitigate adverse impacts
65 to natural systems.

66 (7) The Districts shall determine whether Section 373.233, F.S., entitled “Competing
67 Applications”, and implementing rules, are applicable to pending applications. An application that
68 is complete is considered no longer pending under Section 373.233, F.S., once the district has
69 noticed agency action pursuant to Rule 28-106.111, F.A.C. This paragraph shall have no effect on
70 applications received by Districts prior to [effective date].

71 (8) For all water use classes, when economic conditions or population growth rates result in
72 the actual water use being lower than permitted water use, a modification to reduce the permitted
73 allocation shall only be made by the District when there is no reasonable likelihood that the
74 allocation will be needed during the permit term. For agricultural consumptive use permits for
75 irrigation, reductions in actual use compared to permitted consumptive use that are due to weather
76 events, crop diseases, nursery stock availability, or changes in crop type shall not result in a permit
77 modification by the District to reduce the permitted allocation during the term of the permit.
78 Nothing in this subsection shall be construed to alter the Districts’ authority to reduce permitted
79 consumptive use under circumstances not addressed by this subsection, nor be construed to alter
80 the water conservation requirements of the permit for the duration of the permit.

81 (9) Any reallocation of an existing permitted quantity of water shall be reviewed by the District
82 and shall be subject to full compliance with the applicable permitting criteria of the District.

83 *Rulemaking Authority 373.016, 373.019, 373.026(7), 373.036, 373.043, 373.171, 373.219,*
84 *373.223, 373.236 FS. Law Implemented 373.016, 373.019, 373.023, 373.026, 373.036, 373.042,*
85 *373.0421, 373.103, 373.171, 373.175, 373.219, 373.223, 373.233, 373.236, 373.246, 373.250,*
86 *373.413, 373.414, 373.416, 373.418, 373.703, 403.064, 403.0891 FS. History—New 7-20-95,*
87 *Amended 5-7-05, 5-7-06, 5-6-13.*

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1 **62-40.520 District Water Management Plans and Strategic Plans**

2 (1) Each District shall develop a comprehensive water management plan, based on at least a
3 20-year planning period, which is consistent with the provisions of this chapter and Section
4 373.036(2), F.S. District Water Management Plans are comprehensive guides to the Districts in
5 carrying out all their water resource management responsibilities, including water supply, flood
6 protection, water quality management, and protection of natural systems. The plans shall provide
7 general directions and strategies for District activities, programs, and rules. They will be
8 implemented by a schedule of specific actions of the District, which may include program
9 development, water resource projects, land acquisition, funding, technical assistance, facility
10 operations, and rule development.

11 (2) Districtwide water supply assessments shall be developed in accordance with the provisions
12 of Section 373.036(2)(b)4., F.S. The assessment shall determine whether sources of water are
13 adequate to supply water for all existing and projected reasonable-beneficial uses and to sustain
14 the water resources and related natural systems. If it is determined that sources of water are not
15 adequate, the affected area shall have a regional water supply plan developed in accordance with
16 Section ~~373.036~~373.709, F.S. and Rule 62-40.531, F.A.C.

17 (a) The determinations shall be updated at least every 5 years.

18 (b) Within one year of the determination that a regional water supply plan is needed for a water
19 supply planning region, the region, or a portion thereof, shall also be designated as a water resource
20 caution area. Domestic wastewater treatment facilities which are located within, or serve a
21 population located within, or discharge within water resource caution areas shall be subject to the
22 reuse requirements of Section 403.064, F.S. ~~(4)~~ Water resource caution areas shall be designated
23 by rule if the designation will be applied as part of the evaluation of a consumptive use permit

24 application. Otherwise, such a designation shall be either by rule or within the applicable regional
25 water supply plan. If designated in a regional water supply plan, the plan shall include the
26 following or substantially similar language: “The water supply planning region identified in this
27 plan shall be considered a Water Resource Caution Area for the purposes of section 403.064, F.S.,
28 and affected parties may challenge the designation pursuant to section 120.569, F.S.”. The district
29 shall notify the Department of any changes made to water resource caution area designations,
30 including providing Geographic Information Systems (GIS) shape files of the designated areas.

31 ~~(3) Based on economic, environmental, and technical analyses, a course of remedial or preventive~~
32 ~~action shall be specified for each current and anticipated future water resource problem that is~~
33 ~~identified in the District Plan.~~

34 ~~(4) Remedial or preventive measures shall include consideration of measures such as: water supply~~
35 ~~development projects; water resource development projects; water resource restoration projects~~
36 ~~pursuant to Section 403.0615, F.S.; purchase of lands; conservation of water; development of~~
37 ~~alternative supplies such as desalination, aquifer storage and recovery, reuse of reclaimed water~~
38 ~~and recycling of stormwater and industrial wastewater; enforcement of Department or District~~
39 ~~rules; and actions taken by local government pursuant to a local government comprehensive plan,~~
40 ~~local ordinance, or zoning regulation.~~

41 ~~(5) District Plans shall also for identify areas where collection of data, water resource~~
42 ~~investigations, water resource development or conservation projects, or the implementation of~~
43 ~~regulatory programs are necessary to address water resource problems.~~

44 (6) District plans shall address, at a minimum, the following subjects:

45 (a) District overview;

46 (b) Water management goals;

47 (c) Water management responsibilities, including:

48 1. Water supply protection and management, to include source protection and regional water
49 supply planning;

50 2. Flood protection and floodplain management. This shall include the District's strategies and
51 priorities for managing facilities and floodplains, and a schedule for District mapping of
52 floodplains;

53 3. Water quality protection and management for both surface water and ground water. This
54 shall include the District's strategies, priorities, and schedules to develop pollutant load reduction
55 goals and any basin-specific rules as needed to assure that a TMDL is met; and

56 4. Natural systems protection and management. This shall reflect the schedule for establishing
57 minimum flows and levels required by Section 373.0421, F.S.

58 (d) For each water management responsibility, the following shall be included:

59 1. Resource assessments, including identification of regionally significant water resource
60 issues and problems within the District;

61 2. Water management policies for identified issues and problems; and

62 3. Implementation strategies for each issue and problem, including tasks, schedules,
63 responsible entities, and measurable benchmarks.

64 ~~(e) Integrated plan, describing how the water problems of each county in the District are~~
65 ~~identified and addressed;~~

66 ~~(f) Intergovernmental coordination, including measures to implement the plan through~~
67 ~~coordination with the plans and programs of local, regional, state and federal agencies and~~
68 ~~governments; and~~

69 ~~(g)~~(e) Procedures for plan development, including definitions and public participation, and

70 [intergovernmental coordination](#).

71 (7) A District Water Management Plan is intended to be a planning document and is not self-
72 executing.

73 (8) At a minimum, District Plans shall be updated and progress assessed every five years. Each
74 District shall include in the Plan a procedure for evaluation of the District's progress towards
75 implementing the Plan. Such procedure shall occur at least annually and a copy of the evaluation
76 shall be provided to the Department each year by November 15 for review and comment.

77 [\(9\) A strategic plan prepared in accordance with the requirements of s. 373.036\(2\)\(e\), F.S.,
78 may substitute for the requirements of the district water management plan required by s.
79 373.036\(2\)\(a\), F.S., and Rule 62-40.520\(1\), \(4\), and \(5\) and annual report required by s.
80 373.036\(7\)\(b\), F.S., and Rule 62-40.520\(8\), F.S. This provision does not affect the requirements
81 concerning the development of regional water supply plans.](#)

82 ~~(9)~~[\(10\)](#) Plan development shall include adequate opportunity for participation by the public
83 and governments. Districts shall be deemed to have afforded adequate opportunity for participation
84 to the public and governments, by holding public workshops with advance notice by publication
85 as required by law. Districts shall hold public workshops at least ~~90~~[30](#) days before Plan acceptance
86 or amendment by the Governing Board. At the workshops, a preliminary list of schedules to be
87 included in the Plan shall be presented.

88 *Specific Authority 373.026(7), 373.036, 373.043, 373.171 FS. Law Implemented 373.023, 373.026,*
89 *373.033, 373.036, 373.361, 373.0391, 373.0395, 373.042, 373.0421, 373.046, 373.086, 373.103,*
90 *373.171, 373.175, 373.185, 373.1961, 373.223, 373.246, 373.250, 373.413, 373.414, 373.416,*
91 *373.418, 373.423, 373.429, 373.451, 373.453, [373.709](#), 403.0615, 403.064, 403.067, 403.0891*
92 *FS. History–New 5-5-81, Formerly 17-40.09, Amended 12-5-88, Formerly 17-40.090, Amended*

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93 8-14-90, 12-17-91, Formerly 17-40.501, 17-40.520, Amended 7-20-95, 1-7-97, 5-7-05.

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Workshop 5.15.15

1 **62-40.530 Department Review of District Water Management Plans and Strategic Plans.**

2 (1) After acceptance by the District Governing Board, District Water Management Plans or
3 Strategic Plans shall be submitted to the Department.

4 (2) Within ~~thirty sixty~~ days after receipt of a Plan for review, the Department shall review each
5 Plan for consistency with this chapter and recommend any changes to the Governing Board.

6 (3) After consideration of the comments and recommendations of the Department, the
7 Governing Board shall, within sixty days, either incorporate the recommended changes into the
8 Plan or provide the Department with a written explanation of state in the Plan, with specificity, the
9 reasons for not incorporating the changes.

10 (4) Plan amendments shall follow the same process as for initial Plan acceptance.

11 *Specific Authority 373.026(7), 373.036(1)(d), 373.043, 373.171 FS. Law Implemented 373.023,*
12 *373.026, 373.033, 373.036(1)(d), 373.0391, 373.0395, 373.042, 373.046, 373.086, 373.103,*
13 *373.106, 373.171, 373.175, 373.185, 373.1961, 373.223, 373.246, 373.413, 373.4135, 373.414,*
14 *373.416, 373.418, 373.423, 373.429, 373.451, 373.453, 403.0615(3), 403.064, 403.0891 FS.*
15 *History—New 7-20-95.*

16

1 **62-40.531 Regional Water Supply Plans.**

2 (1) As part of the District Water Management Plans, each governing board shall develop a regional water
3 supply plan for each water supply planning region for which the districtwide water supply assessment
4 determines that sources of water are not adequate to supply water for all existing and projected reasonable-
5 beneficial uses and to sustain the surface and ground water resources and related natural systems. The
6 planning shall be conducted in an open public process, in coordination and cooperation with local
7 governments, regional water supply authorities, government-owned and privately owned water utilities, self-
8 suppliers, and other affected and interested parties. As part of meeting the requirements of Section
9 373.~~0361~~709, F.S., for regional water supply plans:

10 (a) The planning horizon shall be at least 20 years and shall include intermediate water use projections for
11 every 5 year interval.

12 (b) Water use estimates and projections shall be provided for the following use classes:

- 13 1. Public Supply,
- 14 2. Domestic Self Supply,
- 15 3. Agriculture,
- 16 4. Recreational Irrigation,
- 17 5. Industrial/Commercial/Institutional,
- 18 6. Thermoelectric.

19 (c) The University of Florida's Bureau of Economic and Business Research (BEBR) medium population
20 projections shall be considered for population projections. Any adjustment or deviation from the BEBR
21 projections shall be fully described and the original BEBR data shall be presented along with the adjusted
22 data.

23 (2) Each plan shall fully evaluate water resource and water supply development options, including the

24 potential for water conservation, and alternative water supplies ~~sources~~ as defined in Section 373.019(1),
25 F.S., such as desalination, aquifer storage and recovery, use of surface water reservoirs, and reuse of reclaimed
26 water, to meet the regional demands during the planning horizon.

27 (3) When designating a nontraditional source as an alternative water supply, a district shall consider the
28 extent to which the the source has historically been used for water supply in the planning region. Surface
29 water designated as a nontraditional source need not be limited to wet-weather flows. A district may only
30 designate a fresh groundwater source as a non-traditional water supply when the source is an aquifer, or level
31 of an aquifer, that is:

32 (a) different than the traditional source of groundwater in all or a portion of the water supply planning
33 region where the source is designated, and

34 (b) is separated from the traditional source of groundwater by a confining or semi-confining zone.

35 (43) Conservation and reuse shall be evaluated to the same degree as other options.

36 (54) Each plan shall include water supply development projects as defined in Section 373.019(21), F.S.
37 Water supply development projects generally include activities intended to benefit specific individual utilities
38 or other users. Examples include the following types of projects when they provide a localized benefit:
39 wellfields, aquifer storage and recovery wells, desalination facilities, water storage reservoirs, conservation
40 programs to improve water use efficiency, and reuse facilities.

41 (65) Each plan shall provide a list of water resource development projects as defined in Section
42 373.019(19), F.S. Water resource development projects generally include those intended to provide regional
43 benefits as opposed to utility-specific or localized benefits. A project that benefits a specific utility may be
44 classified as a water resource development project if that project provides a regional benefit. Examples include
45 the following types of projects when they provide regional benefits: aquifer recharge, aquifer storage and
46 recovery systems, water storage reservoirs, reuse of reclaimed water projects, and water conservation

47 programs to improve water use efficiency. Water resource development may also include studies that match
48 reclaimed water generators with users, feasibility studies, pilot projects, demonstration projects, and mobile
49 irrigation labs.

50 (76) The Regional Water Supply Plan shall include any recovery or prevention strategy developed for an
51 adopted minimum flow or level, and account for any existing reservations of water.

52 (87) At the time a district updates its regional water supply plan, if the district intends to establish water
53 reservations, it shall include in its plan a priority list and schedule for the establishment of the proposed
54 reservations. However, nothing in this subsection shall preclude a district from adopting a rule establishing a
55 water reservation not identified on the priority list or schedule.

56 (98) Each plan, or the determination of the need for a plan, shall be updated at least every 5 years.

57 *Specific Authority 373.026(7), 373.036(1), (2), 373.043, 373.171 FS. Law Implemented 373.023, 373.026,*
58 *373.036(1)(d), 373.0395, 373.042, 373.046, 373.103, 373.106, 373.171, 373.1961, 373.223, 373.246, 373.418,*
59 *373.451, 373.453, 373.709, 403.0615(3), 403.064, 403.0891 FS. History–New 5-7-05.*

60