

**Comments Regarding Charts 1-3**

STOPR+2 recommends that the Department adopt a single concise and detailed definition of "harmful to the water resources" that ties into the terminology used in the Conditions For Issuance "g (1) - (4)" concepts. This definition would be its own separate rule section. We have previously provided the first half of that definition according to the schedule for comments established by the Department. The comments appearing below present the balance of the definition. The comments appearing below also correspond to the three charts prepared by DEP for comment.

However, we believe the format that should be implemented is a single rule chapter setting forth the matters applicable to the CFWI. The detailed definition of "harmful to the water resources" would appear in its own section within that chapter. In addition to the above-mentioned definition, the rule chapter would include a section with the conditions for issuance in the CFWI. The rule chapter would also incorporate by reference a CFWI Applicant's Handbook to include matters specific to CFWI.

The Handbook would not seek to recreate every aspect of the typical Applicant's Handbook but would instead rely on the existing Applicant's Handbooks for the general information that would not need to be repeated in the CFWI rule. The Chapter 62-x rule provision adopting the CFWI Applicant's Handbook would refer the applicant to the consumptive use permitting Applicant's Handbooks for standard permitting provisions and state that any provisions in the other Applicant's Handbooks that are inconsistent with the CFWI Applicant's Handbook would not apply in the CFWI. As we move towards an Applicant's Handbook, the details can be fleshed out.

**Comments on Portion of Definition of "Harmful to the Water Resources" corresponding to g(4)**

4) hydrologic alteration that results in adverse impacts to the natural system, including wetlands or other surface waters.

(a) For purposes of this definition, "natural system" means "wetlands," "lakes" and "streams."

(b) For purposes of this definition, a "wetland" shall have the meaning specified in Section 373.019(27), Florida Statutes.

(c) For purposes of this definition, wetlands are not to be separated into different wetland categories.

(d) For purposes of this definition, "streams" shall have the meaning specified in Section 373.019 (20), Florida Statutes.

**Commented [A1]:** Based on SWFWMD's categorization of natural systems in AH 3.3.3.1.3 and 3.3.1.1.4. The other two WMDs have not categorized natural systems.

**Commented [A2]:** The statutory definition should control.

**Commented [A3]:** With the exception of SFWMD, the other 2 WMDs do not categorize wetlands. SFWMD categorizes wetlands into Category 1, 2 and 3 in AH 3.3.3 in order to apply a numeric standard to Category 2 Wetlands and a narrative standard to Category 1 and 3 Wetlands.

**Commented [A4]:** The statutory definition should control.

- 40 (e) For purposes of this definition, “natural system: shall not include the wetlands,  
41 streams and lakes identified in SFWMD AH 3.3.1.B and SWFWMD AH  
42 3.3.1.1.1, 3.3.3.1.1.2 and 3.3.1.1.
- 43 (f) For purposes of this definition, “hydrologic alteration that results in adverse  
44 impacts to the natural system” shall be determined by reference to numeric  
45 standards.
- 46 (g) Hydrologic alterations that do not meet any applicable numeric standard and  
47 otherwise result in adverse impacts to the natural system are defined as follows:
- 48 a) Wetlands:
- 49 i. Wet season water levels that deviate from their normal range to the  
50 extent that wetlands plant species composition and community  
51 zonation are adversely impacted;
- 52 ii. Wetland hydroperiods that deviate from their normal range and  
53 duration to the extent that wetlands plant species composition and  
54 community zonation are adversely impacted;
- 55 iii. Wetland habitat functions, such as providing cover, breeding, and  
56 feeding areas for obligate and facultative wetland animals, that are  
57 not temporarily and spatially maintained, and are adversely  
58 impacted as a result of withdrawals; or
- 59 iv. Habitat for threatened or endangered species that is altered to the  
60 extent that utilization by those species is impaired.
- 61 b) Lakes:
- 62 i. Water levels in lakes that deviate from the normal rate and range of  
63 fluctuations to the extent that water quality, vegetation or animal  
64 population are adversely impacted; or
- 65 ii. Water levels in lakes that deviate from the normal rate and range of  
66 fluctuations to the extent that flows to down gradient watercourses  
67 are adversely impacted.
- 68 c) Streams:
- 69 i. Flow rates that deviate from the normal rate and range of  
70 fluctuations to the extent that water quality, vegetation, and animal  
71 populations are adversely impacted in streams and estuaries; or
- 72 ii. Flow rates that are reduced from the existing level of flow to the  
73 extent that salinity distributions in the tidal streams and estuaries  
74 are significantly altered as a result of withdrawals.
- 75

**Commented [A5]:** SFWMD and SWFWMD exclude by rule certain wetlands from CUP permitting review. SJRWMD has not adopted any exclusions by rule. These citations combine the SFWMD and SWFWMD exclusions into one set of exclusions applicable to wetlands located within the CFWI.

**Commented [A6]:** Only SFWMD has adopted numeric standards for Category 2 Wetlands in AH 3.3.4.B. None of the other two WMDs have adopted numeric standards. STOPR+2 recommends numeric standards because they offer greater certainty to water users, provided that consistent numeric standards can be adopted within the CFWI. Otherwise, allowing numeric standards for one WMD, but not allowing it for other two WMDs will lead to inconsistent and unfair results, which STOPR+2 would not support.

**Commented [A7]:** These narrative standards are based on a modified version of the SWFWMD performance standards contained in AH 3.3.1.1.4, 3.3.1.2 and 3.3.1.3. SWFWMD is the only WMD that has adopted a narrative standard for all three categories of natural systems. The major change from the SWFWMD rules was the deletion of language addressing impacts to recreation and aesthetic uses as those appear to relate to adverse impacts to off-site land uses rather than adverse impacts to the natural systems themselves.