

NOTICE OF PROPOSED RULE

WATER MANAGEMENT DISTRICTS South Florida Water Management District

RULE NO.: RULE TITLE:

40E-2.091: Publications Incorporated by Reference

PURPOSE AND EFFECT: The Everglades Agricultural Area (EAA) Reservoir is a critical component of Central Everglades Planning Project (CEPP) in the Comprehensive Everglades Restoration Plan (CERP). The project helps avoid harmful lake discharges to the St. Lucie and Caloosahatchee estuaries and sends more water south to the central Everglades.

Section 601 of WRDA 2000 and Section 373.470, F.S., require the State to protect water made available for the natural system by CERP projects from allocation to consumptive uses. Legal protection of the water is required before the South Florida Water Management District (District) and the U.S. Army Corps of Engineers (USACE) may execute a Project Partnership Agreement (PPA) to cost-share the construction of CERP project features. The District is fulfilling these requirements by adopting rules reserving the water released from the EAA Reservoir Project to the central Everglades.

SUMMARY: The proposed water reservation rule protects all surface water released from the EAA Reservoir directed to the Lower East Coast Everglades waterbodies through the S-624, S-625, and S-626 structures (Figure 3-6 and 3-7). Model simulations of the draft operating protocol predict the EAA Reservoir, together with existing and planned infrastructure and a modified Lake Okeechobee schedule, will convey 825,000 acre-feet of surface water during an average annual water year (May-April) to the EAA Reservoir Project's STA, STA-2, STA-3/4, or A-1 FEB, then discharged to the Lower East Coast Everglades waterbodies.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A Statement of Estimated Regulatory Costs has not been prepared by the agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the SERC or, if no SERC is required, the information expressly relied upon and described herein: The District completed the Governor's Office of Fiscal Accountability and Regulatory Reform (OFARR) form "Is a SERC Required?" and prepared a summary of the proposed rule amendments, both of which are available upon request. Based on the completed "Is a SERC Required?" form and the District's summary and analysis performed to prepare and complete said documents, the proposed rule amendment does not require legislative ratification pursuant to subsection 120.541(3), F.S.

Any person who wishes to provide information regarding the SERC, or to provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY (formerly "Specific Authority"): [373.044](#), [373.113](#), [373.171](#), [373.216](#) FS

LAW IMPLEMENTED: [373.042](#), [373.0421](#), [373.083](#), [373.109](#), [373.196](#), [373.219](#), [373.223](#), [373.224](#), [373.229](#), [373.232](#), [373.233](#), [373.236](#), [373.239](#), [373.250](#) FS

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

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: District Clerk @ 1(800)432-2045, ext. 6805 or (561)682-6805. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Don Medelli, Principal Scientist, P. O. Box 24680, West Palm Beach, FL 33416-4680, 1(800)432-2045, ext. 6340 or (561)682-6340, dmedelli@sfwmd.gov.

THE FULL TEXT OF THE PROPOSED RULE IS:

40E-2.091 Publications Incorporated by Reference.

(1) The “Applicant’s Handbook for Water Use Permit Applications within the South Florida Water Management District – _____, 2020 September 7, 2015”

(<http://www.flrules.org/Gateway/reference.asp?No=RefXXXXX>

<http://www.flrules.org/Gateway/reference.asp?No=Ref05791>) is incorporated by reference herein.

(2) The following forms and materials are referenced in the “Applicant’s Handbook for Water Use Permit Applications within the South Florida Water Management District – _____, 2020 September 7, 2015”

(<http://www.flrules.org/Gateway/reference.asp?No=RefXXXXX>) and are incorporated herein:

(a) through (f) No Change.

(g) Subsections referenced in Section 3.3.6 of the “Environmental Resource Permit Applicant’s Handbook, Volume I (General and Environmental)”, (June 1, 2018 ~~October 1, 2013~~)

(<http://www.flrules.org/Gateway/reference.asp?No=Ref-09390>

<http://www.flrules.org/Gateway/reference.asp?No=Ref-05372>) incorporated by reference in paragraph 62-330.010(4)(a), F.A.C., referenced in Section 3.3.6, as follows:

1. through 9. No Change.

(3) No Change.

(4) The publications “Applicant’s Handbook for Water Use Permit Applications within the South Florida Water Management District” and forms incorporated herein are available at no cost by contacting the South Florida Water Management District Clerk’s Office, 3301 Gun Club Road, West Palm Beach, FL 33406, 1_(800)_432-2045, ext. ~~6805 6436~~ or (561)_682-~~6805 6436~~.

Rulemaking Authority 373.044, 373.113, 373.118, 373.171, 373.216 FS. Law Implemented 373.042, 373.0421, 373.083, 373.109, 373.196, 373.219, 373.223, 373.224, 373.229, 373.232, 373.233, 373.236, 373.239, 373.250 FS. History—New 9-3-81, Formerly 16K-2.035(1), Amended 2-24-85, 11-21-89, 1-4-93, 4-20-94, 11-26-95, 7-11-96, 4-9-97, 12-10-97, 9-10-01, 12-19-01, 8-1-02, 6-9-03, 8-31-03, 4-23-07, 9-13-07, 2-13-08, 10-14-08, 7-2-09, 3-15-10, 3-18-10, 9-26-12, 10-23-12, 7-21-13, 7-14-14, 7-16-14, 9-7-15, _____.

The excerpt of proposed amendments to the “Applicant’s Handbook for Water Use Permit Applications within the South Florida Water Management District – _____, 2020” is:

3.11.6 Everglades Agricultural Area (EAA) Reservoir

The Everglades Agricultural Area Reservoir Water Reservation, as stated in paragraph 40E-10.061(3)(a), F.A.C., protects the Central Everglades Planning Project water needed for fish and wildlife within the Lower East Coast Everglades Waterbodies. Applications deemed complete before the conditions identified in paragraph 40E-10.061(3)(b), F.A.C., and which otherwise satisfy the requirements of Chapter 40E-2, F.A.C., as applicable, do not use water reserved under paragraph 40E-10.061(3)(a), F.A.C.

NAME OF PERSON ORIGINATING PROPOSED RULE: Lawrence Glenn, Division Director, Water Resources

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: South Florida Water Management District Governing Board

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 8, 2020

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: June 30, 2020