



Water Reservation Rule Development Workshop

August 6, 2020

WELCOME

Zoom Format for Public Engagement

- Please use the “Q & A” (Question and Answer) feature on the Zoom tool bar to submit questions throughout the workshop
- This Q & A feature is the only means for the public to engage with us during this workshop
- Questions from the public will be addressed during the "Public Comment" portions of the agenda
- Questions from the public will be read out loud and live answers will be provided for all to hear

Workshop Agenda

1. Welcome
2. Water Reservation Authority and Process
3. Technical Document Comments and Revisions
4. Draft Rule Comments and Revisions
5. Public Comment
6. Next Steps

Water Reservation Rule Development Workshop for EAA Reservoir
August 6, 2020



**Water Reservation Authority
and Process**

Jennifer Brown
Office of Counsel

Statutory Authority: Section 373.223(4), F.S.

- Done by a rule
- Protects water from being allocated to consumptive use
- Quantity that is need to protect fish and wildlife or public health and safety
- Periodic review and revision in the light of changed conditions
- All existing legal users are protected, provided they are not contrary to the public interest

Additional Rulemaking Requirements

- District rules must be consistent with the Water Resource Implementation Rule
- Must follow requirements in Chapter 120, F.S., and implementing rules
- Must follow the Department of State rules on form
- Must follow Governor's November 11, 2019 Directive

Rulemaking Requirements: Rule 62-40.474,F.A.C.

- Periodic reviews at least every 5 years
- May be used for the protection of fish and wildlife to aid in the restoration of natural systems, which provide fish and wildlife habitat
- To the extent practical, must clearly describe the location, quantity, timing, and distribution of the water reserved
- Can be adopted prospectively for water quantities anticipated to be made available.

Federal Integration with Chapter 373, F.S.

- Water Resources Development Act (WRDA) 2000
 - Water made available by the CERP project for the natural system is required to be protected
 - Must use its **reservation or allocation** authority
- Project Implementation Report (PIR) must identify the increase in water supplies resulting from the project component Section 373.470(3)(c), F.S., and reserve or allocate that additional supply.
 - Identify water for the natural system
 - Identify water for other water-related needs
- Reservation or allocation must be completed before a Project Partnership Agreement (a cost-share agreement to receive federal funding for project construction and operation) can be executed

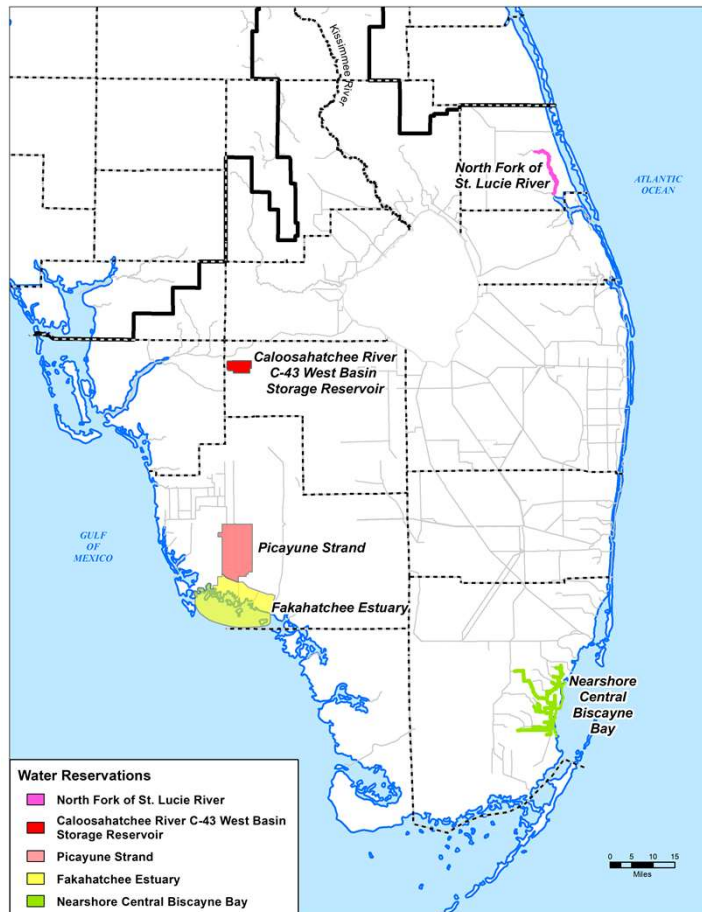
Schedule for EAA Reservoir Project Partnership Agreement – USACE and SFWMD cost-share agreement

- | | |
|---|-------------------|
| ➤ Reservation Rule Effective | December 31, 2020 |
| ➤ Verification Letter Exchange | TBD |
| ➤ Prepare package for Project Partnership Agreement | TBD |
| ➤ Approve Project Partnership Agreement | May 2021 |
| ➤ USACE Initiate Construction | Fall 2021 |

Steps for Rule Development

EAA Reservoir Reservation Rule Schedule	
Milestone	Date
Notice of Rule Development*	April 9, 2020 – Complete
Rule Development Workshop #1	July 14, 2020 – Complete
Rule Development Workshop #2	August 6, 2020 (today)
Notice of Proposed Rule *	September 10, 2020
Rule Adoption Hearing*	November 12, 2020
Rules become effective	December 31, 2020

* Requires Governing Board approval



Adopted Water Reservations

- Fakahatchee Estuary
- Picayune Strand
- North Fork of the St. Lucie River
- Nearshore Central Biscayne Bay
- Caloosahatchee River C-43 West Basin Storage Reservoir

Cover ~172,074 acres Districtwide

Defining Water to be Reserved

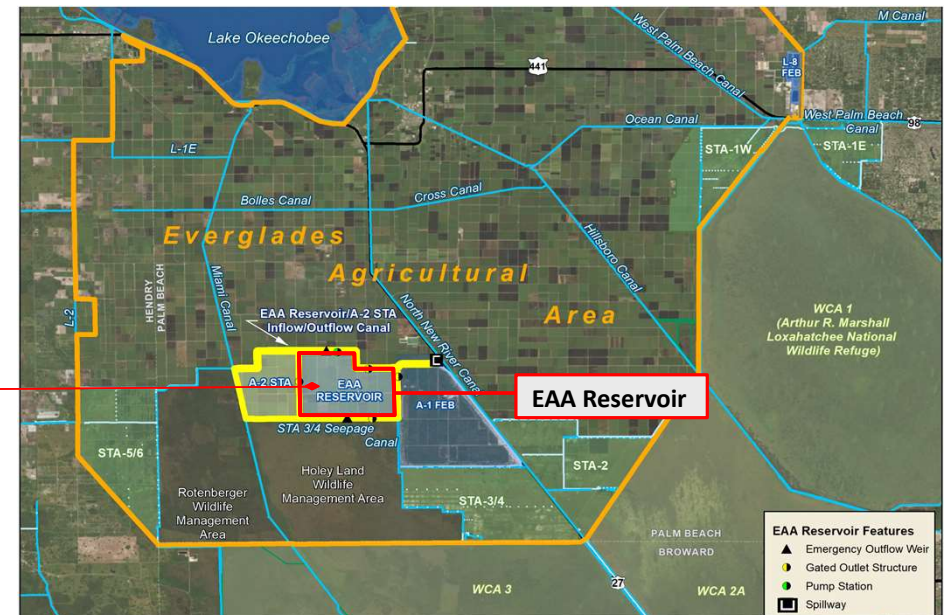
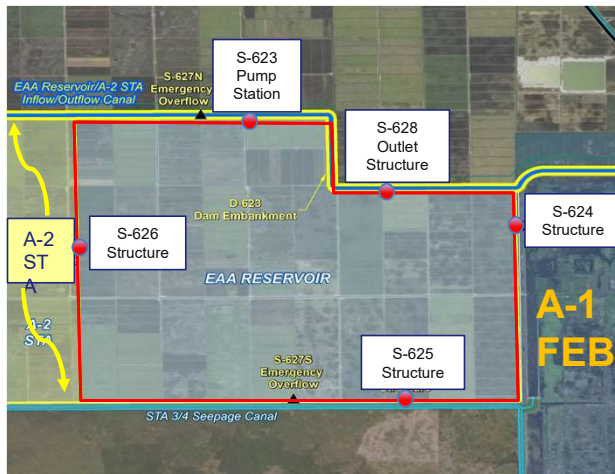
- Identify the reservation waterbody
- Characterize the hydrology of the reservation waterbody
- Identify fish and wildlife to be protected
- Establish linkages between hydrology and fish and wildlife
- Define the water needed to protect the identified fish and wildlife
- Draft Technical Report, July 28, 2020



Everglades mink (*Neovison vison evergladensis*)
Source: Moirai Conservation and Research

EAA Reservoir Reservation Waterbody

- EAA Reservoir provides 240,000 acre-feet of static storage and delivers water to the Central Everglades
- Water benefits fish and wildlife in the Central Everglades
- Water Reservation focuses on water stored by CERP project



SOUTH FLORIDA WATER MANAGEMENT DISTRICT

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EAA Draft Technical Document
Comments and Revisions

Don Medellin
Applied Sciences Bureau

Chapters 1 and 2

- Added statement about state law requirements as it relates to increased water supplies from CERP projects (Section 1.1)
- Added a new paragraph regarding multi-purpose reservoir and general operating strategy and where its located in the PACR (Section 1.4.1)
- Clarified statement that water is not available until fully constructed/ operational and certified by the Governing Board (Section 2.1)
- Public workshop dates were included (Section 2.2)
- References to Appendices B, C, D and E (Section 2.2)
- Additional opportunities for public engagement as the rule development process continues – upcoming Governing Board meetings (Section 2.2)

Chapters 4 and 5

- Table 4-1 updated figure references (Section 4.2.6)
- Clarified population numbers rather than densities for apple snails (Section 4.3.5)
- Added new paragraph regarding adaptive management in the ecological summary (Section 4.3.7)
- Clarifying statement that reservation is perspective-water not available until constructed and operational (Section 5.1)
- Reservation can be modified in light of changed conditions or new data (Section 5.1)



Chapter 5 and Appendices

- Clarified modeling evaluations in PACR - S-628 structure provided more operational flexibility and maximized environmental benefits to fish and wildlife by repeated filling of the reservoir (Section 5.1.1)
- Added a new paragraph regarding the savings clause analysis that was completed previously in the PACR and EIS and where to find it (Section 5.2.1)
- Appendix B – Final Peer Review Report
- Appendix C – Summary of Peer Review and Public Comments, Questions and District Responses on Technical Document
- Appendix D – Public Comment Letters received after May 29 Public Peer Review Session
- Appendix E – Summary of Public Comments, Questions and District Responses on Draft Water Reservation Rule

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**Draft Rule Language for the
Prospective Reservation**

Alberto Naya
Water Use Bureau

Proposed Rule in 40E-10, F.A.C

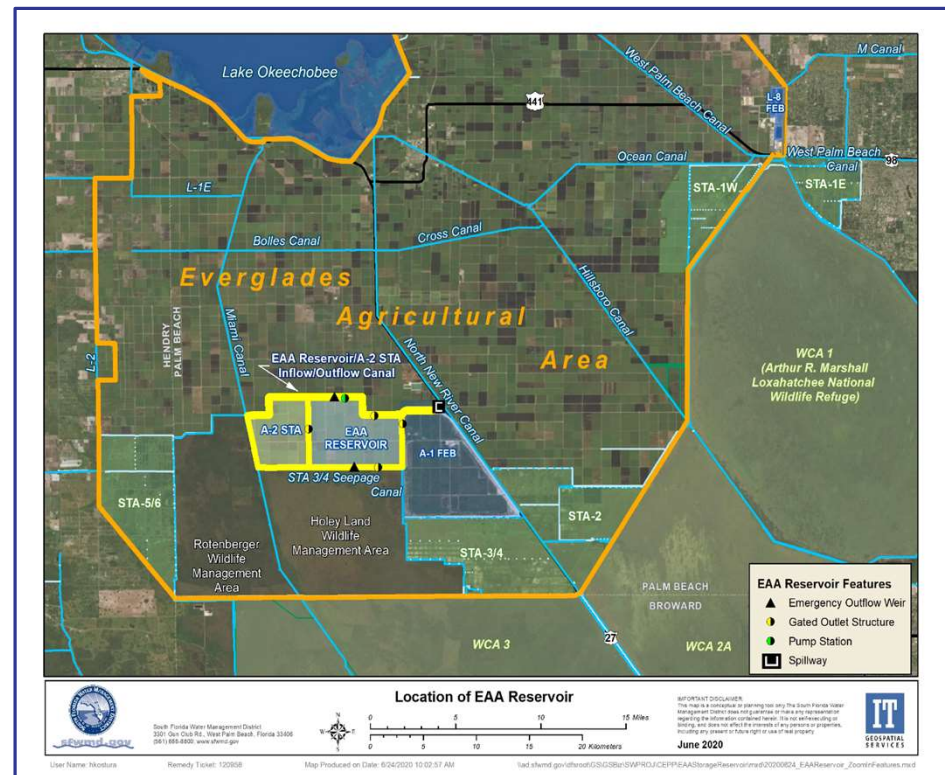
Figure 3-5. Location of the EAA Reservoir

40E-10.021 Definitions.

(7) Everglades Agricultural Area (EAA) Reservoir – A reservoir located in Palm Beach County, Florida, south of the City of South Bay between the Miami and North New River Canals as described in Appendix 3 and depicted in Figure 3-5.

40E-10.031 Water Reservations Implementation.

(6) Water reserved for the protection of fish and wildlife released via operation from the EAA Reservoir is defined in subsection 40E-10.061(3)(a), F.A.C.



Proposed Rule in 40E-10 – Continued.

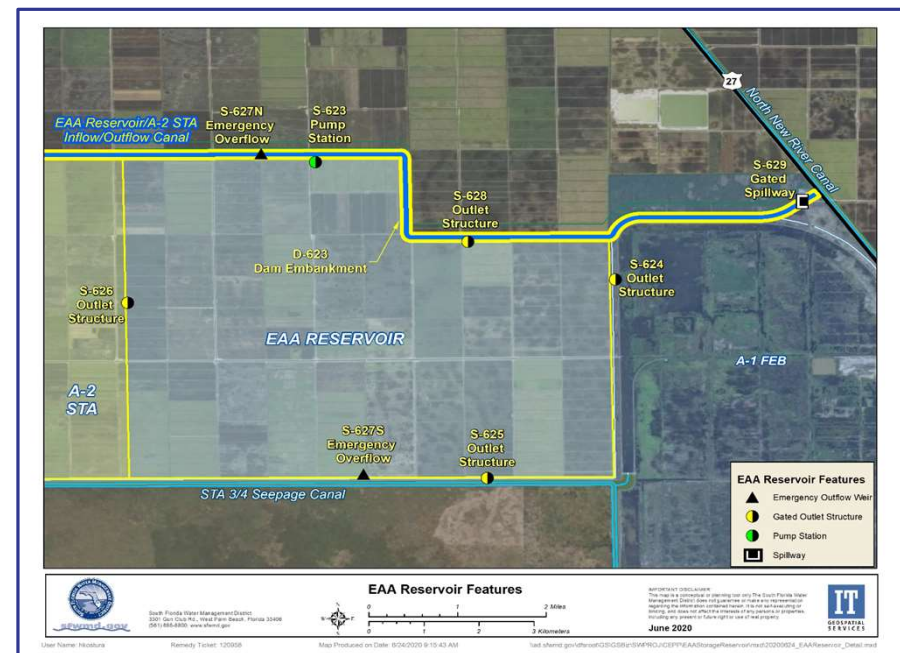
- The Draft Rule Language is also consistent with the Draft Operation Manual in the PACR, 2018, Annex C.

40E-10.061 Water Reservation Areas: Lower East Coast Planning Area

(3) EAA Reservoir:

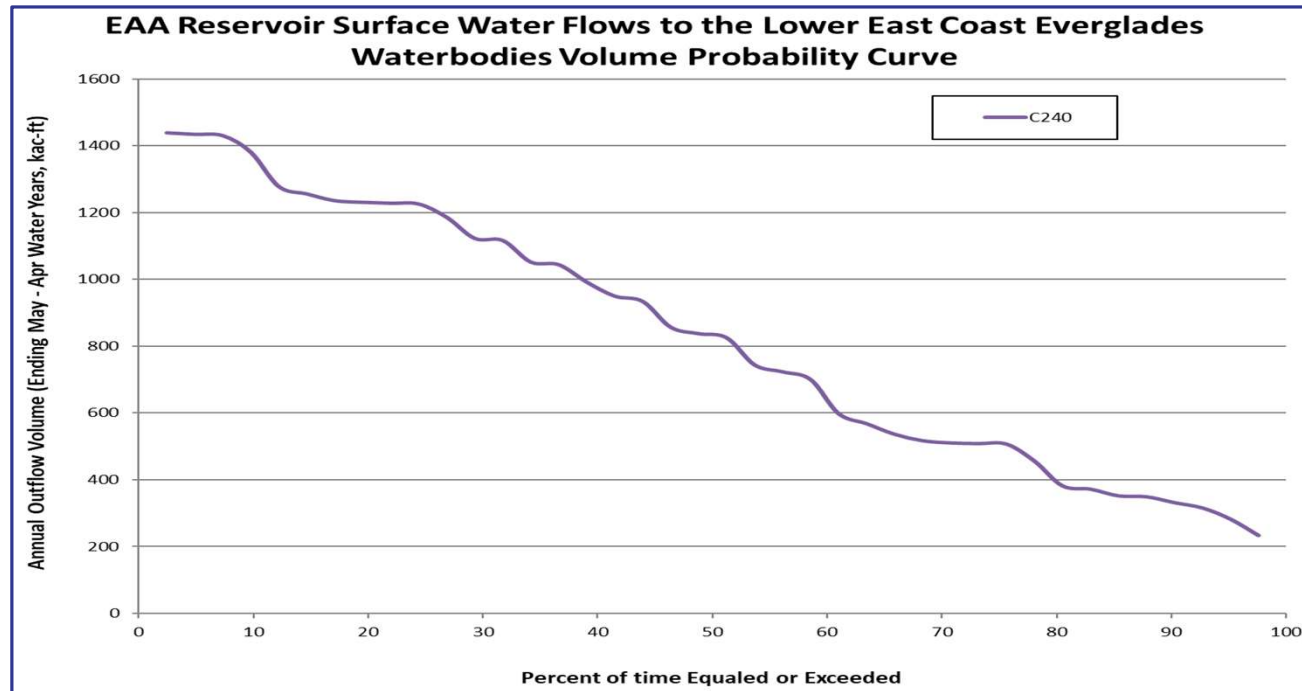
- (a) All surface water released, via operation, from the EAA Reservoir that is directed to the Lower East Coast Everglades Waterbodies through Structures S-624, S-625, and S-626 (see Figure 3-6) is reserved from allocation. Model simulations of the EAA Reservoir together with existing and planned infrastructure and a modified Lake Okeechobee schedule indicate the EAA Reservoir could convey 825,000 acre-feet of surface water on an average annual basis (see Figure 3-7).

Figure 3-6. Key Features of the EAA Reservoir



Proposed Rule in 40E-10 – Continued.

Figure 3-7. Everglades Agricultural Area Reservoir outflow volume probability curve through Structures S-624, S-625, and S-626.



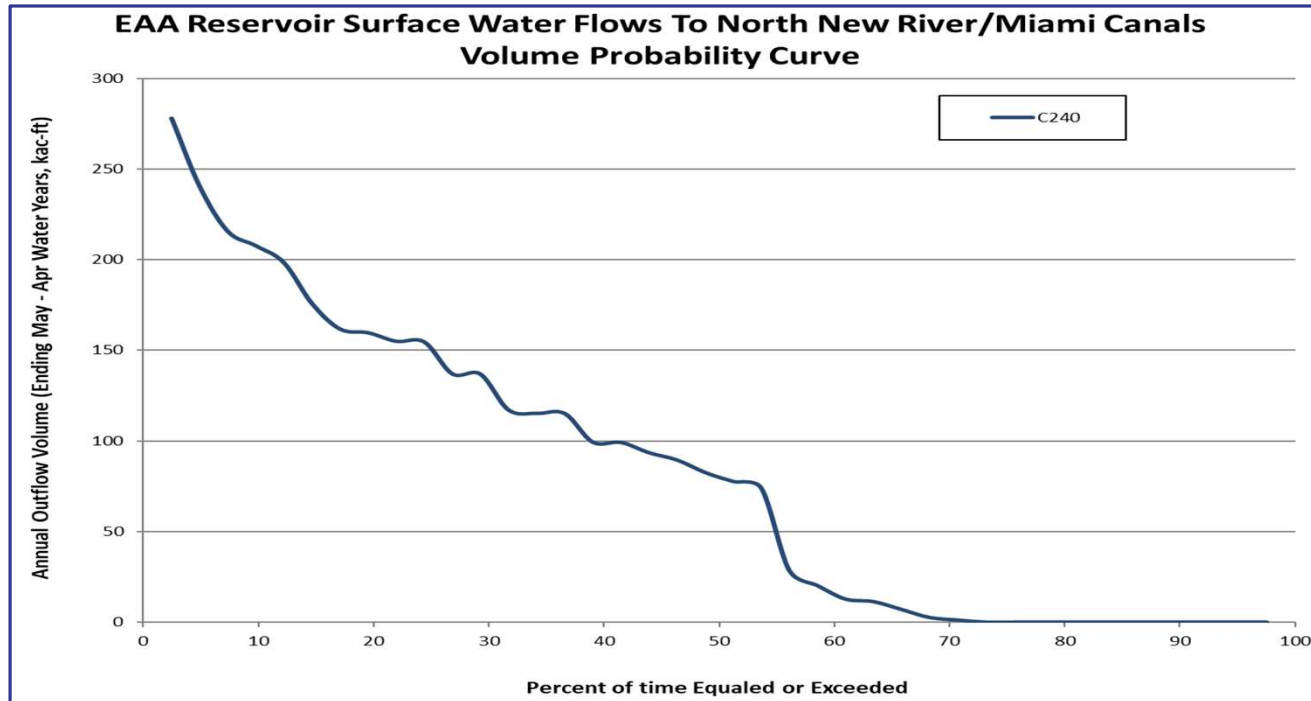
Proposed Rule in 40E-10 – Continued.

40E-10.061 Water Reservation Areas: Lower East Coast Planning Area

- (b) Water reserved will be available for fish and wildlife upon a formal determination of the Governing Board, pursuant to state and federal law, that the EAA Reservoir is operational.
- (c) The reservation contained in this subsection and the criteria contained in Section 3.11.6 of the “Applicant’s Handbook for Water Use Permit Applications within the South Florida Water Management District,” incorporated by reference in Rule 40E-2.091, F.A.C., shall be revised pursuant to Section 373.223(4), F.S., in light of changed conditions or new information and prior to the approval described in paragraph (3)(b), above.
- (d) Water released from the EAA Reservoir through Structure S-628 is not reserved. Model simulations of the EAA Reservoir, together with existing and planned infrastructure and a modified Lake Okeechobee schedule, indicate the EAA Reservoir could discharge 82,000 acre-feet of surface water on an average annual basis through Structure S-628 (see Figure 3-8).

Proposed Rule in 40E-10 – Continued.

Figure 3-8. Everglades Agricultural Area Reservoir flow volume probability curve through Structure S-628.



Additional Proposed Rule Incorporation

40E-2.091 Publications Incorporated by Reference.

- (1) The “Applicant’s Handbook for Water Use Permit Applications within the South Florida Water Management District – September 7, 2015” (<http://www.flrules.org/Gateway/reference.asp?No=Ref-05791>) is incorporated by reference herein.

Applicant’s Handbook for Water Use Permit Applications within the SFWMD

3.11.6 EAA Reservoir

The Everglades Agricultural Area Reservoir Water Reservation, as stated in Subsection 40E-10.061(3), 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 Subsection 40E-10.061(3)(a), F.A.C., and which otherwise satisfy the requirements of Chapter 40E-2, F.A.C., as applicable, do not use water reserved under Subsection 40E-10.061(3)(a), F.A.C.

Public Comment

Please use the “Q & A” (Question and Answer) feature on the Zoom toolbar to submit a question regarding the information presented.

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Next Steps

Don Medellin
Applied Sciences Bureau

Next Steps

- Agenda, technical document, draft rule language, frequently asked questions, and final peer-review report (posted on July 29, 2020), public comments, etc., etc.
- Public comments are **due Thursday, August 27, 2020**
- Technical Document will be finalized August 31, 2020
- Comments can be submitted to Toni Edwards at tedwards@sfwmd.gov
- Workshop presentations will be posted to the EAA Reservoir Reservations webpage
- **Next Opportunities for Public Engagement:**
 - **Notice of Proposed Rule – September 10, 2020 Governing Board Meeting**
 - **Rule Adoption Hearing – November 12, 2020 Governing Board Meeting**

EAA Reservoir Reservation Schedule

Project Milestone	Date	
Public Peer Review Session	May 29, 2020	✓
Rule Development Workshop #1	July 14, 2020	✓
Rule Development Workshop #2	August 6, 2020	✓
Notice of Proposed Rule*	September 10, 2020	
Rule Adoption Hearing*	November 12, 2020	
Effective Date of Proposed Rules	December 21, 2020	

*Governing Board action required

Additional Information

- EAA Reservoir reservations webpage
www.sfwmd.gov/reservations
- EAA Reservoir web board (under SFWMD MFL and Water Reservation Categories)
<http://sfwmd.websitetoolbox.com/>
- SFWMD rules webpage
www.sfwmd.gov/rules

Thank You