

MEMORANDUM

TO: Governing Board Members

FROM: Deena Reppen, Deputy Executive Director
Regulatory and Public Affairs

DATE: December 9, 2010

SUBJECT: Authorize publication of the Notice of Rulemaking to amend Chapters 40E-1, 40E-4, 40E-40, 40E-41, 40E-400, F.A.C., and the Basis of Review for Environmental Resource Permit Applications within the South Florida Water Management District (District) to: 1) correct citations; 2) correct references and exhibits to forms and revise conservation easement form for local governments to increase flexibility; 3) delete obsolete forms and other documents incorporated by reference; 4) update and repeal rules for consistency with statutes; 5) update process for submitting forms and other documents to the District; 6) repeal duplicative rules; 7) replace illegible maps and renumber Figures for consistency; 8) update rule references; 9) delete unnecessary rule titles following rule numbers within text; 10) correct incomplete sentence; 11) update incorporation language to be consistent with amendment to 1B-30.005, F.A.C.; and 12) update delegation language pursuant to SB 550.

Background:

District regulatory staff, in coordination with Office of Counsel, has reviewed all of the District's environmental resource permitting rules for outdated references, titles and citations, as well as outdated processes. During this review, District staff identified a number of obsolete forms and documents incorporated by reference, forms needing corrections, revisions, or updating, illegible maps, duplicative rules, and rules in need of updating in order to be consistent with statutes. The conservation easement form for local governments is being amended to allow increased flexibility for local governments in the area of defending or insuring title. In addition, in 2009, the Department of State amended subsection 1B-30.005(2), F.A.C., to require materials incorporated by reference be identified by title, the form number, effective date, and the number of the rule in which it is incorporated. Currently, the District's forms and rules do not conform to this requirement. These items must be corrected through a rule change. Finally, the passage of SB2080 in 2009 and SB550 in 2010 address delegation relating to approval

Governing Board Members
December 9, 2010
Page 2

of permit applications. Therefore, District staff is proposing to amend the rules to conform with these changes.

District staff has completed an economic analysis and prepared a draft Statement of Estimated Regulatory Costs, which is attached hereto. Based on this analysis, District staff has determined that there will be no economic impact on small businesses and small cities. Individuals and entities, including government entities, and other users of the District's 40E administrative rules and the BOR will benefit from the use of more accurate and up-to-date rule references and corrected forms, as well as the replacement of illegible maps.

District staff recommends that all of these minor changes be incorporated into one rule development effort. The actual rule text is included herein and the updated forms and maps are posted on the District's rulemaking website at: www.sfwmd.gov/rules . Copies can also be obtained by contacting Yvette Bonilla at extension 6921 or ybonilla@sfwmd.gov .

Recommendation

Staff recommends Governing Board approval to publish a Notice of Rulemaking to amend the District's Rules 40E-1, 40E-4, 40E-40, 40E-400 F.A.C., and in the Basis of Review for Environmental Resource Permits as stated in the subject line.

**Staff Contact: Anita R. Bain, Director, Environmental Resource Permitting
Division
(561) 682-6866**

**Susan Martin, Sr. Specialist Attorney, Office of Counsel
(561) 682-6251**