

M E M O R A N D U M

TO: Governing Board Members

FROM: Sharon M. Trost, P.G., AICP, Director, Regulation Division

DATE: August 1, 2012

SUBJECT: Approve changes to proposed Rule 40E-3.036, F.A.C., to address comments from the Joint Administrative Procedures Committee received after the public hearing, incorporating industry publications and guidelines incorporated by reference in Florida Department of Environmental Protection's rules governing water well construction requirements and water well contractor educational requirements.

Recommendation

Staff recommends approval of changes to Rule 40E-3.036, F.A.C., based on comments from JAPC that were received after the public hearing to incorporate the Florida Department of Environmental Protection's (FDEP) Manual for Coursework and Continuing Education for Water Well Contractors as well as various other industry technical publications and guidelines that are incorporated by reference in FDEP rules.

Background

The South Florida Water Management District (District) has been delegated responsibility for implementing the water well permitting and water well contractor licensing programs set forth in Part III, Chapter 373, F.S. However, the Florida Department of Environmental Protection (FDEP) prescribes the application process and qualifications for water well contractor licensure. Pursuant to Section 373.337, F.S., the District must adopt these licensure requirements.

In October 2010, the FDEP amended several rules, changing various construction standards and forms. The amendments adopted various industry standards and incorporated technical publications describing those standards. The Manual for Coursework and Continuing Education for Water Well Contractors was not one of the revised forms, criteria, or documents. FDEP, the water well contractor industry, and the water management districts continue the process of updating various rules and guidelines, including the Manual for Coursework. Additionally, the technical publications describing the industry standards are not available on the identified entity's website and must be individually purchased.

The District received comments back from the Joint Administrative Procedure Committee (JAPC) stating that the Manual for Coursework needed to be incorporated by reference in Rule 40E-3.036, F.A.C., and that the Manual appeared to modify the water well contractor licensing requirements set forth in the statutes. The District responded that the FDEP was responsible for setting the criteria and the District was obligated to adopt it. The District

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also informed the JAPC that it would recommend to the FDEP that the issue be addressed during the Consumptive Use Permitting consistency (CUPcon) rulemaking effort. JAPC verbally stated that such a response would be sufficient to satisfy its comment. However, the JAPC subsequently informed the District that waiting for CUPcon rulemaking to address the issue would not be sufficient and that the manual and industry standards should be incorporated during this rulemaking effort.

This rulemaking effort was included in the Annual Regulatory Plan submitted to OFARR. The adoption and incorporation of the rules and forms will ensure consistency between the FDEP, the District, and the local agencies to which the District has delegated implementation of the water well permitting program.

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