

## MEMORANDUM

**TO:** Governing Board Members

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

**DATE:** April 23, 2012

**SUBJECT:** Authorize Publication of a Notice of Proposed Rule to Amend Rules 40E-2.091, 40E-20.091, and 40E-20.301(h), F.A.C., and the Basis of Review for Water Use Permit Applications within the South Florida Water Management District; and Repeal Chapter 40E-23, F.A.C., and request review by the Office of Fiscal Accountability and Regulatory Reform regarding reclaimed water reuse criteria.

### **Recommendation:**

Staff recommends authorization to publish a Notice of Proposed Rule in the Florida Administrative Weekly to repeal Chapter 40E-23, F.A.C., and certain portions of Section 3.2.3 of the Basis of Review as unnecessary; amend reclaimed water requirements in Section 3.2.3.2.B.2 of the Basis of Review for Water Use Permit Applications within the South Florida Water Management District (Basis of Review), incorporated by reference in Rules 40E-2.091 and 40E-20.091, F.A.C.; and amend Rule 40E-20.301(h), F.A.C., to require applicants located within a mandatory reuse zone who are seeking an allocation less than 3 million gallons per month, to perform the end user feasibility evaluation.

### **Background:**

During the 2010 legislative session, Section 373.250, F.S., was amended, mandating the water management districts (WMDs) to adopt rules to require certain permit applicants to provide documentation from a reuse utility addressing the availability of reclaimed water and rules to specify the content of the required documentation. Water management districts were required to initiate rulemaking by July 1, 2011. This rulemaking effort was included in the Annual Regulatory Plan submitted to the Office of Fiscal Accountability and Reform. The proposed Notice of Rule Development will be sent to OFARR in accordance with Executive Order No. 11-72.

The 2010 amendment was the product of the Reclaimed Water Workgroup (Workgroup). The Workgroup is made up of representatives from utility members of the Florida Water Environment Association, the Florida Department of Environmental Protection, and the WMDs. Attached is a letter of support from the Florida Water Environment Association Utility Council. The proposed rule development will also require applicants of minor general use permits located in a mandatory reuse zone to perform an end user feasibility evaluation. This proposed rulemaking effort should increase coordination between the District and reuse utilities and further the legislative goal of encouraging and promoting water conservation and the reuse of reclaimed water. The WMDs are coordinating rule development to develop consistent rules.

**Governing Board Members**  
**April 23, 2012**  
**Page 2**

The District also proposes to repeal Chapter 40E-23, F.A.C., and that portion of Section 3.2.3 of the Basis of Review which refers to Chapter 40E-23, F.A.C. District staff believes these rules are unnecessary given the requirement to perform an end user feasibility evaluation contained in Section 3.2.3.2 of the Basis of Review.

**Staff Contact: Steven Memberg, Principal Hydrogeologist, Water Use Bureau; Phone 561-682-2133**

**Jennifer Bokankowitz, Office of Counsel; Phone 561-682-2258**