

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 3, 2011

SUBJECT: Approve a Memorandum of Agreement among the Department of Agriculture and Consumer Services, South Florida Water Management District, St. Johns River Water Management District, Southwest Florida Water Management District, Suwannee River Water Management District, and Northwest Florida Water Management District regarding the binding determination of agricultural exemptions under subsection 373.406(2), Florida Statutes, and authorize the Executive Director to execute the Memorandum of Agreement.

Background

Chapter 2011–165, Laws of Florida (HB 421), amended provisions of Chapters 373 and 403, Florida Statutes (Fla. Stat.) concerning agricultural-related activities that are exempt from environmental resource permitting pursuant to subsection 373.406(2), Fla. Stat. The amendments provide that in the event of a dispute as to the applicability of the agricultural exemption set forth in subsection 373.406(2), Fla. Stat., a water management district or landowner may request that the Department of Agriculture and Consumer Services (DACS) make a binding determination as to whether such activity qualifies for the exemption. The new law also requires water management districts and DACS to enter into a Memorandum of Agreement (MOA) which sets forth processes and procedures by which DACS will undertake its review, make a determination effectively and efficiently, and provide notice of its determination to the applicable water management district and landowner.

The District currently has a MOA with DACS providing the process for a nonbinding determination concerning whether an activity qualifies for the agricultural exemption set forth in subsection 373.406(2), Fla. Stat. Since passage of the new legislation, a new MOA has been drafted, and staff anticipates receiving a final MOA, to be executed by the Commissioner of Agriculture and circulated in counterparts for execution by each water management district executive director. A copy of the final draft MOA is included in the Board packet as an exhibit for this item. Staff is requesting Governing Board approval of the MOA and authorization for the Executive Director to execute the MOA on behalf of the District.

How this helps meet the District's 10-year Strategic Plan

This MOA reflects new statutory requirements and provides a procedural framework for satisfaction of those requirements.

Funding Source

There is no funding source associated with this item.

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This Board item impacts what areas of the District, both resource areas and geography

This item will impact the exercise of the process utilized to determine District jurisdiction pertaining to lands which may be utilized for agricultural purposes.

What concerns could this Board item raise?

This item should not raise concerns. Approval of the MOA merely sets forth a process for the application of a statutory revision.

Why should the Governing Board approve this item?

Pursuant to Section 373.406(2), DACS and the water management districts are required to enter into an MOA setting forth the process for applying for a binding determination from DACS regarding the applicability of the agricultural exemption.

If you have any questions, please do not hesitate to call at ext. 6814.

SRM