

M E M O R A N D U M

TO: Governing Board Members

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

DATE: May 13, 2010

SUBJECT: Authorize Publication of a Notice of Rulemaking to Incorporate by Reference the Delegation Agreements of the Water Well Regulatory Program

Recommendation

Staff recommends approval of a Notice of Rulemaking to amend Rule 40E-3.035, Fla. Admin. Code, to incorporate by reference: 1) the agreements with the following governmental entities: Lee County and the County Health Departments of Broward, Glades, Highlands, Miami-Dade, Orange, Osceola, Polk, and Palm Beach Counties to delegate the implementation of the Water Well Regulatory Program; 2) to incorporate by reference the first amendment to the delegation agreement with the City of Cape Coral, Collier County, and the County Health Departments of Hendry, Martin, Okeechobee, Osceola, and St. Lucie Counties; and, 3) to incorporate by reference the second amendments to the delegation agreements with the Martin, Okeechobee, and St. Lucie County Health Departments to include a provision concerning legal support.

Background

In 1998, the District delegated the Water Well Regulatory Program to Martin County Health Department. The Water Well Regulatory Program was delegated to the St. Lucie County Health Department in 2000, and to the Okeechobee County Health Department in 2002. The Delegation Agreements have been incorporated by reference into the District's Rules. Rule 40E-3.035, Fla. Admin. Code. In May 2005, the Okeechobee County Health Department also executed a delegation agreement to implement the Water Well Regulatory Program within Highlands County.

Highlands County Health Department now desires to implement the Water Well Regulatory Program within its own jurisdiction. The Okeechobee County Health Department is amenable to the termination of the May 2005 Okeechobee/Highlands delegation agreement. The Departments of Health and Environmental Protection has been notified of execution of delegation agreement as required by Section I(B)(5)(b) of the Interagency Agreement Between the Department of Environmental Protection and the South Florida Water Management District and the Department of Health.

Additionally, the Martin, Okeechobee, and St. Lucie County Health Departments wish to further amend their delegation agreements to include a provision that sets forth the responsibilities and obligations for legal support of the Water Well Regulatory Program. The District and the Health Departments have drafted a second amendment to the delegation agreements that describes the responsibilities and obligations for legal support that is mutually acceptable.

Finally, in 2005, the District also delegated the Water Well Regulatory Program to Lee County and the Broward, Glades, Miami-Dade, Orange, Osceola, Polk, and Palm Beach County Health Departments and amended existing delegation agreements with the City of Cape Coral, Collier County, and the Hendry, Martin, Okeechobee, Osceola, and St. Lucie County Health Departments. These agreements and amendments were not previously incorporated by reference into Rule 40E-3.035, Fla. Admin. Code.

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

This effort will help protect water supply for public health and safety by requiring compliance with Chapter 373, Florida Statutes, and allowing those familiar with the local geography of the county to implement the Water Well Regulatory Program.

Funding Source:

There are no funding needs associated with the proposed execution of the delegation agreement between the District and the county health departments.

Any litigation expenses which may arise from petitions for administrative hearings transmitted from the county health departments (Martin, Okeechobee, and St. Lucie) to the District will come from Office of Counsel's budget.

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

This item impacts water supply and environmental resources in Broward, Collier, Glades, Hendry, Highlands, Lee, Martin, Miami-Dade, Okeechobee, Orange, Osceola, Polk, Palm Beach, and St. Lucie Counties, and the City of Cape Coral. It affects activities within the Water Use Regulation Division in the Water Supply Management Department of the Regulatory and Public Affairs Resource Area.

What concerns could this Board item raise?

Neither the execution of the Delegation Agreement with Highlands County Health Department nor the amendments to the delegation agreements with Martin, Okeechobee, and St. Lucie County Health Department should raise any concerns. The District has delegated responsibility for implementation and enforcement of the Water Well Regulatory Program to various county health departments and political subdivisions since 1985. The agreements to be executed and incorporated by reference to District rules are similar to existing delegation agreements.

Why should the Governing Board approve this item?

The Governing Board should approve this item to further the implementation of the Water Well Regulatory Program for Part III of Chapter 373, F.S. This program is implemented with the assistance and coordination of local governmental entities, which the District wishes to continue.

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DR/jdb