

## MEMORANDUM

**To:** Governing Board Members  
**From:** Ernie Barnett, Director, Office of Policy and Legislation  
**Date:** December 11, 2006  
**Subject:** Notice of Rule Development to revise the Lake Okeechobee Works of the District Chapter 40E-61 Florida Administrative Code and to amend Chapter 40E-1

Authorize publication of the Notice of Rule Development in the Florida Administrative Weekly (FAW) for amendments to rule Chapter 40E-1 and revisions to Chapter 40E-61 Florida Administrative Code, the Lake Okeechobee (LOK) Works of the District (WOD) to clarify the District's statutory responsibilities in the administration of this program under the Lake Okeechobee Protection Act.

### **Background**

The Lake Okeechobee Works of the District program is a water quality regulatory program mandated in 1989 by the Florida Legislature under 373 Florida Statutes (F.S.) and Chapter 40E-61 Florida Administrative Code. In 2000 the Florida Legislature passed a more aggressive protection plan to reduce phosphorus loads to Lake Okeechobee, the Lake Okeechobee Protection Act (373.4595 F.S.) In addition the current legislation for Lake Okeechobee directs the state to develop Total Maximum Daily Loads (TMDL) for the lake through Chapter 403.067 F.S. The Governing Board had previously granted authorization for amending Chapters 40E-1 and 40E-61. However, during the process to amend the chapter 40E-61 a TMDL was established for Lake Okeechobee and TMDLs for the tributaries have been proposed. Chapter 40E-61 is 17 years old and staff concurs that major revisions are required. The revisions are necessary to better support the roles of the coordinating agencies the South Florida Water Management District, the Florida Department of Environmental Protection, and the Florida Department of Agriculture and Consumer Services, in executing the mandate of the Lake Okeechobee Protection Act. Changes in the application forms for the LOK WOD rule are also proposed which makes it necessary to amend Chapter 40E-1, the general and procedural rules that govern District proceedings under Chapter 120 F.S.

### **How does this item help meet the District's 10 year strategic plan?**

The District is one of three coordinating agencies charged with implementing the Lake Okeechobee Protection Act. The goal of the Lake Okeechobee Protection Plan is to meet the 140 metric ton TMDL for the lake by 2015. The Works of the District program is an integral part of achieving this goal and as such revising the current rules will reduce duplication among the coordinating agencies and provide more efficient regulatory support throughout the watershed.

### **Funding Source**

Permit fees and ad valorem funds.

### **This Board items impacts what areas of the District both resource area and geography?**

This is a regional program impacting the Lake Okeechobee Watershed as defined in the 2004 Lake Okeechobee Protection Plan to include 62 basins extending from the upper Kissimmee Chain of Lakes south to the EAA.

### **What concerns could this Board raise?**

Revising the Works of the District Chapter 40E-61 F.A.C will provide a more seamless approach, between the cooperating agencies, in implementing the Lake Okeechobee Protection Plan and provide an equal level of Best Management Practice (BMP) implementation. The program will also document the effectiveness of BMPs and identify high phosphorus source areas to target BMP implementation.

### **Why should the Governing Board approve this item?**

Approval of this item will eliminate any duplication between the cooperating agencies in implementing the Lake Okeechobee Protection Plan. In addition, an amended program will also provide for more effective use of resources for monitoring and evaluation of BMPs.

EB/sig