

MEMORANDUM

TO: Governing Board Members

FROM: Tommy B. Strowd, Director, Operations, Maintenance & Construction Division

DATE: February 9, 2012

SUBJECT: Authorize publication of Notice of Rule Development to amend, repeal and add new rules to Chapter 40E-6, F.A.C., and the materials incorporated by reference in Rule 40E-6.091, F.A.C.; and repeal portions of Chapter 40E-62, F.A.C., and merge the remainder of Chapter 40E-62 into Chapter 40E-6, regarding the Right of Way Permitting Program for Works and Lands of the District and request review by the Office of Fiscal Accountability and Regulatory Reform in accordance with Executive Order 11-211.

Recommendation

Publish a Notice of Rule Development to amend, repeal and add new rules to Chapter 40E-6, F.A.C., and the materials incorporated by reference in Rule 40E-6.091, F.A.C.; and repeal portions of Chapter 40E-62, F.A.C., and merge the remainder of Chapter 40E-62 into Chapter 40E-6, regarding the Right of Way Permitting Program for Works and Lands of the District, which implements the Right of Way Permitting Program and prescribes how to connect with and make use of works and lands of the District, in accordance with s. 373.085 and 373.086, Fla. Stat.

Background

The District's Right of Way Permitting Program derives its authority from portions of Chapter 373, Florida Statutes (specifically s. 373.085 and 373.086) and Chapter 40E-6, F.A.C. These rules form today's basis for the District's oldest permitting and enforcement program with the earliest permits going back to 1914. These rules are applicable to more than 1,600 miles of canal and levee rights of way and 1,350 square miles of Water Conservation Area lands. The Right of Way Permitting Program provides an evaluation process for requests to connect with and/or make use of Works and Lands of the District, considering its impact on the District's operations and maintenance requirements, quality of title implications, environmental review, assessment of potential liability implications and compatibility with future recreational proposals. The purpose of this rulemaking effort is to streamline and clarify the permitting process, correct inaccuracies, and merge relevant portions of Chapter 40E-62, F.A.C. into Chapter 40E-6, F.A.C.

This rulemaking effort was included in the Annual Regulatory Plan submitted to the Office of Fiscal Accountability and Regulatory Reform (OFARR) on June 30, 2011. The proposed Notice of Rule Development will be sent to OFARR in accordance with Executive Order No. 11-211.

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