

CHAPTER 40D-26
FACILITATING AGRICULTURAL RESOURCE MANAGEMENT SYSTEMS PROGRAM

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40D-26.011 Policy and Purpose.

(1) The purpose of the Facilitating Agricultural Resource Management Systems (FARMS) Program is to expedite the implementation of water resource development and alternative water supply development projects by providing funding assistance for the development of production-scale Best Management Practices (BMPs) for agriculture that will result in reductions in water use and improvements in water quality and to natural systems within the District.

(2) This chapter sets forth the procedures for the FARMS Program and the requirements for obtaining funding assistance.

Rulemaking Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.0831(3), 373.196(1), 373.1961(3) FS. History—New 1-7-09.

40D-26.021 Definitions.

When used in this chapter:

(1) “Agriculture” means the science and art of production of plants and animals and includes aquaculture, horticulture, floriculture, viticulture, forestry, nurseries, dairy, livestock, poultry, bees, and any and all forms of farm products and farm production.

(2) “Best Management Practice” means a practice or combination of practices based on research, field-testing, and expert review, to be the most practicable on-location means, including economic and technological considerations, for improving water conservation and quality in agricultural discharges. BMPs for agricultural discharges shall reflect a balance between water resource improvements and agricultural productivity.

(3) “District” means the Southwest Florida Water Management District.

(4) “Equipment” means the tangible items and components of a project including software and internet services for the first year of a project’s operation.

(5) “Model Farms Costs” means those estimated costs developed to identify reasonable costs associated with implementing various water conservation methods by a variety of agricultural operations as set forth in Tables A-1 through A-18 of the Facilitating Agricultural Resource Management Systems (FARMS) Program Model Farms Economic Update, June 2009, incorporated herein by reference in Rule 40D-26.091, F.A.C.

(6) “Program” means the Facilitating Agricultural Resource Management Systems Program described in this chapter.

(7) “Project Area” means the land upon which the components of the BMPs are located and includes the land to be served by a project.

Rulemaking Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.0363(4), 373.705(3), 373.707(1), 373.707(8) FS. History—New 1-7-09, Amended 1-16-11.

40D-26.091 Publications Incorporated by Reference.

The following document is hereby incorporated by reference into this chapter and is available from the District upon request: Facilitating Agricultural Resource Management Systems (FARMS) Program Model Farms Economic Update, June 2009.

Rulemaking Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.0363(4), 373.705(3), 373.707(1), 373.707(8) FS. History—New 1-7-09, Amended 1-16-11.

40D-26.101 Conditions of Eligibility.

(1) Agricultural operations located within the District that are in compliance with the District's Environmental Resource Permitting rules in Chapters 40D-4, 40D-40 and 40D-400, F.A.C., and the District's Water Use Permitting rules in Chapter 40D-2, F.A.C., District issued permits and District funding agreements and that have been operational for the preceding 3 years are eligible for the Program. Agricultural operations less than 3 years old are eligible if the project will result in a reduction in the use of ground water. A project shall not be eligible if the applicant previously received Program funds and construction of the funded project has not commenced.

(2) The following projects are eligible for the Program:

(a) Implementation of BMPs that reduce withdrawals from the Upper Floridan aquifer or from any combination of ground, surface or reclaimed water sources and have a cost-benefit that is equal to or less than the Model Farms Costs; however, no more than 5% of frost/freeze protection quantities authorized by a District Water Use Permit shall be used in calculating the amount of water no longer withdrawn from the Upper Floridan aquifer in areas outside of the following boundary: The portions of Hillsborough and Polk Counties within the following sections (all Townships are South; all Ranges are East):

- Township 27, Range 20: Sections 25, 26, 35 and 36;
- Township 27, Range 21: Sections 25 through 36;
- Township 27, Range 22: Sections 25 through 36;
- Township 27, Range 23: Sections 29 through 32;
- Township 28, Range 20: Sections 1, 2, 11 through 14, 23 through 26, 35 and 36;
- Township 28, Range 21: All Sections;
- Township 28, Range 22: All Sections;
- Township 28, Range 23: Sections 5 through 8, 17 through 20, and 29 through 32;
- Township 29, Range 20: Sections 1, 2, 11 through 14, 23 through 26, 35 and 36;
- Township 29, Range 21: All Sections;
- Township 29, Range 22: All Sections;
- Township 29, Range 23: Sections 5 through 8, 17 through 20, and 29 through 32;
- Township 30, Range 20: Sections 1, 2, 11 and 12;
- Township 30, Range 21: Sections 1 through 12;
- Township 30, Range 22: Sections 1 through 12;
- Township 30, Range 23: Sections 5 through 8.

(b) Implementation of BMPs that improve ground or surface water quality impacted by ground water withdrawals.

(c) Implementation of BMPs that improve natural system functions within the Upper Myakka River Watershed.

(d) Implementation of BMPs that reduce frost/freeze protection withdrawals authorized by a District Water Use Permit from the Upper Floridan aquifer within the boundary described in paragraph 40D-26.101(2)(a), F.A.C.

(3) Projects that retrofit or upgrade an irrigation system shall be eligible only if the applicant previously applied for funding assistance under the United States Department of Agriculture, Natural Resources Conservation Service's Environmental Quality Incentives Program within the preceding 3 years and that otherwise meet the requirements of this rule.

Rulemaking Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.0363(4), 373.705(3), 373.707(1), 373.707(8) FS. History—New 1-7-09, Amended 1-16-11.

40D-26.201 Program Application.

(1) Applicants shall consult with District FARMS Program staff at a pre-application meeting to discuss proposed projects before submitting their applications.

(2) Applicants for funding shall submit to the District the information required on District Form LEG-R.22.02 (8/10), titled Facilitating Agricultural Resource Management Systems Program Funding Application Form, adopted and incorporated by reference in this rule. This form is available from the District's website at www.watmatters.org or from the District upon request.

(3) Applications for leased property shall be a joint application signed by the lessee and property owner. If there are multiple owners, all owners shall sign the application form or sign an attachment to the application form indicating they join in the application.

Rulemaking Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.0363(4), 373.705(3), 373.707(1), 373.707(8) FS. History—New 1-7-09, Amended 8-30-09, 1-16-11.

40D-26.301 Eligibility Determination.

(1) The District shall fund projects that meet all conditions of eligibility set forth in Rule 40D-26.101, F.A.C., subject to available funding. If the District receives completed applications for projects that exceed available funding, the District shall first fund those projects that qualify for a 75% cost-share rate as set forth in paragraph 40D-26.401(1)(b), F.A.C., and then those projects that have the greatest reduction in withdrawals from the Upper Floridan aquifer, provided there are sufficient funds to fully fund each project as set forth in Rule 40D-26.401, F.A.C. A complete application means that all information in Rule 40D-26.201, F.A.C., has been submitted with sufficient detail for the District to determine eligibility.

(2) The District shall notify an applicant in writing as to whether a project is eligible. The notice shall constitute agency action subject to the provisions of Chapter 120, F.S. If the District denies eligibility, the notice of denial shall specify the reasons for the denial.

(3) If an application is funded, all property owners and lessees shall enter into a legally binding agreement with the District.

Rulemaking Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.083(1), 373.0831(3), 373.196(1), 373.1961(3) FS. History—New 1-7-09.

40D-26.401 Cost-Share Rates.

(1) The District's cost-share rate for a funded project shall be based upon a project's resource benefit as follows:

(a) Equipment costs shall be reimbursed up to a maximum of 50% of the total project cost when a project:

1. Reduces withdrawals from the Upper Floridan aquifer by less than 50%;
2. Reduces withdrawals from any combination of ground, surface or reclaimed water sources;
3. Improves ground or surface water quality impacted by ground water withdrawals; or
4. Improves natural system functions within the Upper Myakka River Watershed.

(b) Equipment costs shall be reimbursed up to a maximum of 75% of the total project cost when a project:

1. Reduces withdrawals from the Upper Floridan aquifer by 50% or more;
2. Reduces withdrawals by 15% or more from any combination of ground, surface or reclaimed water sources of which a minimum of 5% of the total withdrawal reduction is from the Upper Floridan aquifer and the project improves water quality in surface or ground water impacted by ground water withdrawals or improves natural system functions within the Upper Myakka River Watershed; or
3. Reduces frost/freeze protection withdrawals authorized by a District Water Use Permit from the Upper Floridan aquifer within the boundary described in paragraph 40D-26.101(2)(a), F.A.C.

(2) Only costs for Equipment procured in accordance with the terms of the agreement between the applicant and the District shall be eligible for reimbursement.

(3) Applicants shall fund a minimum of 25% of the total project cost exclusive of any funding provided by other sources.

(4) For purposes of this rule, costs associated with a project's excavation activities shall not be included in the total cost of the project; however, these costs shall count towards applicant's minimum 25% funding requirement if as-built construction drawings certified by a licensed professional engineer or surveyor are provided to the District and then to the following extent:

- (a) 100% of the costs if excavated material will not be removed from owner's property.
- (b) 50% of the costs if excavated material will be removed from owner's property.

*Rulemaking Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.0363(4), 373.705(3), 373.707(1), 373.707(8) FS. History--
New 1-7-09, Amended 1-16-11.*