

## Notice of Proposed Rule

### WATER MANAGEMENT DISTRICTS

Southwest Florida Water Management District

RULE NO.: RULE TITLE:

40D-1.660 Publications, Forms and Agreements Incorporated by Reference

PURPOSE AND EFFECT: The Florida Department of Environmental Protection (DEP) and the state's five water management districts (WMDs) are jointly initiating rulemaking to comply with the Clean Waterways Act (Chapter 2020-150, Laws of Florida), which was enacted through Senate Bill 712 in 2020. This legislation directs DEP and the WMDs to revise the stormwater design and operation regulations under Section 373.4131, Florida Statutes, using the latest scientific information available. The purpose and effect of the proposed rulemaking is to: (1) Promote greater consistency between DEP's statewide regulations and the region-specific standards adopted by each WMD; (2) Incorporate low-impact development (LID) best management practices (BMPs) and design criteria that increase nutrient removal; and (3) Ensure the consistent application of the net improvement performance standard for pollutant load reductions across all districts. To achieve these goals, DEP has updated Chapter 62-330, F.A.C., and Volume I of the Environmental Resource Permit (ERP) Applicant's Handbook, and each WMD must update its respective Volume II to ensure consistency with DEP's updated statewide standards.

SUMMARY: To align with DEP's updated ERP rules, the Southwest Florida Water Management District (SWFWMD) is proposing to amend Rule 40D-1.660, F.A.C., which incorporates by reference the District's ERP Applicant's Handbook Volume II. The proposed changes to Volume II will include: (1) Removal of redundant content and eliminating all water quality presumptive criteria, water quality treatment standards (including for BMPs), sediment and erosion control requirements, and operation and maintenance provisions, which are now addressed exclusively in DEP's updated Chapter 62-330, F.A.C., and DEP's ERP Applicant's Handbook Volume I; (2) Revising and clarifying remaining provisions in SWFWMD's Handbook Volume II to reflect updated terminology, design standards, and regulatory criteria not covered by Volume I; AND (3) Making miscellaneous edits throughout Volume II to improve clarity and ensure conformity with DEP's revised rules.

### SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the Agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: The District conducted an economic review of the revisions to the rule and determined that the impact or regulatory cost, if any, of the revisions will not exceed any one of the economic analysis criteria in a SERC as set forth in Section 120.541(2)(a), F.S. The proposed amendments to Rule 40D-1.660, F.A.C., incorporate by reference the District's ERP Applicant's Handbook Volume II, which contains the stormwater management system design and performance standards applicable in this District. The amendments are necessary to achieve consistency with 62-330, F.A.C., and would not generate additional regulatory costs or have new adverse impacts on small businesses.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 373.046(4), 373.113, 373.4131, 373.414, 373.415, 373.416, 373.418, 373.461 FS.

LAW IMPLEMENTED: 373.413, 373.4131, 373.414, 373.415, 373.416, 373.418, 373.426, 373.461(3) FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAR.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Christopher A. Tumminia, General Counsel, 7601 US Highway 301 North, Tampa, FL 33637, (813)445-6839, or by email at [Chris.Tumminia@swfwmd.state.fl.us](mailto:Chris.Tumminia@swfwmd.state.fl.us).

THE FULL TEXT OF THE PROPOSED RULE IS:

**40D-1.660 Publications, Forms and Agreements Incorporated by Reference.**

The following documents are hereby incorporated by reference and are applicable to this chapter and Chapters 40D-40 and 40D-400, F.A.C.:

(1) through (6) No change.

(7) Southwest Florida Water Management District Environmental Resource Permitting Applicant's Handbook Volume II (10-31-256-1-18) <http://flrules.org/Gateway/reference.asp?No=Ref-18558>

~~https://www.flrules.org/Gateway/reference.asp?No=Ref-09430~~ is also available at the District's website and from the District upon request. Applicant's Handbook Volume II applies only to permit applications, exemptions, notices and petitions for formal or informal delineations that are processed under the statewide environmental resource permit rule to be adopted by the Department of Environmental Protection as Chapter 62-330, F.A.C.

*Rulemaking Authority 373.044, 373.046, 373.113, 373.171, 373.414 FS. Law Implemented 373.079(4)(a), 373.083(5), 373.114, 373.171, 373.403, 373.413, 373.4135, 373.4136, 373.414, 373.4144, 373.416, 373.429, 373.441 FS. History—New 4-2-87, Amended 3-1-88, 9-11-88, 10-1-88, 4-1-91, 11-16-92, 1-30-94, 10-3-95, 12-26-95, 5-26-96, 7-23-96, 4-17-97, 4-12-98, 7-2-98, 12-3-98, 7-28-99, 8-3-00, 9-20-00, 6-12-01, 10-11-01, 2-27-02, 7-29-02, 3-26-03, 7-22-03, 8-3-03, 3-11-04, 6-7-04, 2-1-05, 6-30-05, 10-19-05, 2-8-06, 5-2-06, 7-1-07, 9-25-07(1), 9-25-07(4), 11-26-07, 5-12-08, 5-20-08, 6-22-08, 5-12-09, 5-17-09, 8-30-09, 11-2-09, 11-3-09, 12-9-09, 9-5-10, 12-8-10, 12-12-11, 12-29-11, 10-1-13, Formerly 40D-4.091, Amended 6-1-18, \_\_\_\_\_.*

NAME OF PERSON ORIGINATING PROPOSED RULE: Southwest Florida Water Management District

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Southwest Florida Water Management District Governing Board

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 28, 2023

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: March 10, 2023