

## **M E M O R A N D U M**

**TO:** Governing Board Members

**FROM:** Carolina Maran, Ph.D., P.E., Division of Flood Control and Water Supply Planning

**DATE:** February 12, 2026

**SUBJECT:** Authorize Publishing Notices of Rule Development in the Florida Administrative Register to Amend Rules 40E-2.061, 40E-2.071, 40E-2.091 (Incorporating by Reference the Applicant's Handbook for Water Use Permit Applications within the South Florida Water Management District), and 40E-3.301, Florida Administrative Code

### **Agenda Item Background:**

The areas of Cape Coral and Lehigh Acres have been experiencing rapid growth and therefore increased water demands, primarily from domestic use (i.e., domestic self-supply [DSS] and landscape irrigation). The principal source of water to meet the DSS and landscape irrigation water demands is the Mid-Hawthorn aquifer (MHA) in the Cape Coral area and the Sandstone aquifer (SSA) in the Lehigh Acres area. Water levels have been declining regionally in both aquifers due to increased groundwater withdrawals.

The water level elevation in some monitor wells in the MHA and SSA has decreased to, or is approaching, a level below what is referred to as the maximum developable limit (MDL). MDLs are part of the District's consumptive use permitting criteria designed to protect the semiconfined Lower West Coast (LWC) aquifers from further groundwater level declines by establishing a "protection zone" and restricting the issuance of new water use permits.

The LWC aquifers are protected by a minimum flow and minimum water level (MFL), and the MDL criteria serve as the regulatory component for the MFL's prevention strategy. The MDL is designed to prevent the water levels in the LWC aquifers from descending below the top of the aquifer, which is the MFL established for each aquifer (Rule 40E-8.331, Florida Administrative Code [F.A.C.] given the uncertainty associated with non-regulated water uses. Since DSS users are exempt from obtaining a permit for drinking water, and domestic landscape irrigation is authorized with a permit by rule, their impact on individual aquifers is difficult to account for, cumulatively.

Establishment of Restricted Allocation Areas (RAAs) for the MHA in the Cape Coral area and for the SSA in the Lehigh Acres area are being proposed. The intent of the RAAs is to clarify and support implementation of the existing MDL criteria in specified areas to account for the cumulative impacts of both consumptive use permit and DSS uses, which is designed to restrict future groundwater withdrawals to prevent MFL violations and protect the resource from significant harm.

### **Additional Item Background:**

The purpose for rulemaking is to create rule criteria and RAAs for both the SSA and the MHA by amending Rules 40E-2.061, 40E-2.071, 40E-2.091 (incorporating by reference the

Applicant's Handbook for Water Use Permit Applications within the South Florida Water Management District), and 40E-3.301. The District's 2025-2026 Regulatory Plan included this anticipated rulemaking.

District staff will hold rule development workshops to discuss the new rule criteria, RAAs, and supporting technical documents.

**Core Mission and Strategic Priorities:**

This rulemaking supports the District's responsibilities under Chapter 373, Florida Statutes.

**Funding Source:**

Rulemaking activities will be completed using in-house staff resources. Staff time and publication costs for this rulemaking effort are divided between Office of Counsel, Flood Control and Water Supply Planning Division, and Regulation Division.

**Staff Contact and/or Presenter:**

Tom Colios, [tcolios@sfwmd.gov](mailto:tcolios@sfwmd.gov), 561-682-6944

**ATTACHMENTS:**

[Resolution No. 2026-0212](#)

[40E-2 Notice of Rule Development](#)

[40E-3 Notice of Rule Development](#)