

## Notice of Proposed Rule

**WATER MANAGEMENT DISTRICTS**  
**Southwest Florida Water Management District**

RULE NO: RULE TITLE

**40D-8.041**: Minimum Flows

PURPOSE AND EFFECT: To amend Rule 40D-8.041, F.A.C., to establish Minimum Flows for the Dona Bay/Shakett Creek below Cow Pen Slough located within the Manasota Basin, Sarasota County, Florida pursuant to Section 373.042, Florida Statutes. For purposes of this rule the Dona Bay/Shakett Creek System includes the watercourse and its tributaries from the most downstream control structure on Cow Pen Slough, known as CPS-2 and operated by Sarasota County to the Gulf of Mexico including Shakett Creek, Salt Creek, Fox Creek and Dona Bay.

SUMMARY: The proposed rule amendment establishes minimum flows for the Dona Bay/Shakett Creek System, which includes the watercourse and its tributaries from the most downstream control structure on Cow Pen Slough, known as CPS-2 to the Gulf of Mexico including Shakett Creek, Salt Creek, Fox Creek and Dona Bay. The Minimum Flow for the Dona Bay/Shakett Creek System is 100% of the natural flow of the system contributed by the watershed below CPS-2.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.

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.

SPECIFIC AUTHORITY: [373.044](#), [373.113](#), [373.171 FS.](#)

LAW IMPLEMENTED: [373.036](#), [373.0361](#), [373.042](#), [373.0421 FS.](#)

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Karen A. Lloyd, Assistant General Counsel, Office of General Counsel, 2379 Broad Street, Brooksville, FL 34604-6899, (352)796-7211, extension 4651

THE FULL TEXT OF THE PROPOSED RULE IS:

40D-8.041 Minimum Flows.

(1) through (12) No change.

(13) Minimum Flows for the Dona Bay/Shakett Creek System below Cow Pen Slough located within the Manasota Basin, Sarasota County, Florida.

(a) The Minimum Flows are to ensure that the minimum hydrologic requirements of the water resources and ecology of the natural systems associated with the Dona Bay/Shakett Creek System are met. For purposes of this rule, the Dona Bay/Shakett Creek System includes the watercourse and its tributaries from the most downstream control structure on Cow Pen Slough, known as CPS-2 and operated by Sarasota County (hereinafter referred to as "CPS-2") to the Gulf of Mexico including Shakett Creek, Salt Creek, Fox Creek and Dona Bay.

(b) The Minimum Flow for the Dona Bay/Shakett Creek System is 100% of the natural flow of the system contributed by the watershed below CPS-2. This Minimum Flow is exclusive of flow which is generated from the channelized watershed above CPS-2. Flow generated from the channelized watershed above CPS-2 shall be based on the flow records from CPS-2.

Rulemaking Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.036, 373.0361, 373.042, 373.0421 FS. History—Readopted 10-5-74, Amended 12-31-74, Formerly 16J-0.15, 40D-1.601, Amended 10-1-84, 8-7-00, 2-6-06, 4-6-06, 1-1-07, 11-25-07, 2-18-08, 3-2-08, 5-12-08, 5-10-09, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Mike Heyl, Chief Environmental Scientist, Resource Projects, 7601 Hwy 301 North, Tampa, FL 33637-6759, (813)984-7481

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 29, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 25, 2009