

## Notice of Proposed Rule

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

RULE NO: RULE TITLE

[40D-22.201](#): Year-Round Water Conservation Measures[40D-22.401](#): Enforcement

PURPOSE AND EFFECT: To make more consistent the year-round water conservation regulations relating to landscape irrigation among the District, the St Johns River Water Management District (SJRWMD) and the South Florida Water Management District (SFWMD). Consistency of regulations will promote compliance and more efficient enforcement of the regulations especially in areas where counties or municipalities are located in more than one water management district. In December 2008, the Board approved adoption of the proposed amendments pending adoption by the other Districts of consistent year-round regulations. SJRWMD has adopted its rules. Because there will be a delay in rule adoption for the SFWMD, this District's Board authorized completion of this rulemaking.

SUMMARY: The proposed amendments approved by the Board in December 2008 provide (1) a maximum of twice-per-week watering with specified days for residential properties, (2) a separate twice-per-week watering schedule for nonresidential properties, (3) uniform allowable watering hours for all property types and sources of water, including reclaimed water, (4) modification of the establishment period allowance for new plant material, (5) clarification regarding what constitutes one complete irrigation application, (6) clarification regarding the need to improve the efficiency of reclaimed water, (7) requirements for rain sensors, (8) provisions governing operation of fountains and augmentation of water bodies, and (9) a provision for review of a local government's proposed ordinance that includes different year-round measures prior to approval of the ordinance by the applicable city council or county commission.

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](#), [373.219](#), [373.223 FS](#).

LAW IMPLEMENTED: [373.119](#), [373.171](#), [373.175](#), [373.219](#), [373.223](#), [373.246](#), [373.603](#), [373.609 FS](#).

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

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Dianne Lee, Office of General Counsel, 2379 Broad Street, Brooksville, FL 34604-6899; (352)796-7211, extension 4657. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Karen Lloyd, Senior Attorney, 2379 Broad Street, Brooksville, FL 34604-6899; (352)796-7211, extension 4651

THE FULL TEXT OF THE PROPOSED RULE IS:

40D-22.201 Year-Round Water Conservation Measures.

(1) through (3)(a) No change.

(b) Irrigation systems may be operated during restricted days and/or times for cleaning and maintenance purposes with an attendant on site in the area being tested. Irrigation systems may routinely be operated for such purposes no more than once per week, ~~and~~ the run time for any one test ~~shall~~ ~~should~~ not exceed 10 minutes, and the total run time shall not exceed ten minutes per hour per zone.

(c) Irrigation for the purpose of chemigation, fertigation or watering-in of applied fertilizers, insecticides, fungicides and herbicides, where such watering-in is required by the manufacturer, or by federal, state or local law, or by applicable best management practices shall not be restricted, with two exceptions when associated with a lawn or landscape. In the absence of specific alternative instructions from the manufacturer, such watering-in shall be

limited to one application of one-quarter inches within 24 hours of the application; and, such watering-in shall be accomplished during allowable watering ~~hours times~~ unless a professional applicator has posted a temporary sign containing the date of application and the date(s) of needed watering-in activity and has also provided instructions listing the chemicals used and stating that the watering-in must occur immediately rather than during allowable watering hours.

(d) through (f) No change.

(g) New plant material shall only be irrigated as follows:

1. Any new plant material may be irrigated ~~on any day of the week as needed~~, for the purpose of maintaining plant health and encouraging root grow-in, during a 60-day establishment period. From day 1 through day 30 of this establishment period, irrigation may occur on any day of the week. From day 31 through day 60 of this establishment period, irrigation is limited to one application on each of three specified days, except as otherwise provided herein. The three allowable days shall be as follows: Even Numbered Addresses may provide establishment period irrigation on Tuesday, Thursday and Saturday and Odd Numbered Addresses may provide establishment period irrigation on Wednesday, Friday and Sunday.

2. through 7. No change.

(h) through (j) No change.

(4) Lawn and Landscape Use – The following additional requirements or exceptions to subsections 40D-22.201(1)-(3), F.A.C., shall apply to the irrigation of lawns and landscape.

(a) Except as otherwise specified in this Chapter, residential properties with Even Numbered Addresses may accomplish necessary lawn and landscape irrigation on only Thursday ~~Tuesday~~ and/ or Sunday ~~Saturday~~.

(b) Except as otherwise specified in this Chapter, residential properties with Odd Numbered Addresses or ~~and rights-of-way or other locations~~ without any discernable ~~an~~ Address may accomplish necessary lawn and landscape irrigation on only Wednesday and/ or Saturday ~~Sunday~~.

(c) Except as otherwise specified in this Chapter, all nonresidential properties, including rights-of-way and common areas not associated with a specific residential property, may accomplish necessary lawn and landscape irrigation on only Tuesday and/or Friday.

(d) ~~(e)~~ No change.

(e) In addition to following the applicable allowable watering days and times, irrigation is limited to only the amount of water necessary. When Irrigating a lawn, this amount is generally 1/2 to 3/4 inch of water. Since most residential properties can accomplish this amount of lawn irrigation in eight (8) hours or less, the need for a residential property to utilize both the morning and evening allowable watering times is subject to verification. Also, during the cooler winter months or if rain has occurred since the last allowable watering day, lawn irrigation may not be necessary.

(f) Irrigation of a lawn with an automatic sprinkler system shall include the proper installation, maintenance and operation of a rain sensor device or switch that automatically overrides the irrigation system when adequate rainfall has occurred.

(5) through (7) No change.

(8) Other Use – The following additional requirements or exceptions to subsections 40D-22.201(1)-(2), F.A.C., shall apply to other uses as specified:

(a) Operation of water fountains, waterfalls and other artistic or recreational water features is allowed, provided the following conditions are met: the water is recirculated, there is no off-site discharge and the water feature is properly installed, maintained and operated to ensure that a minimal amount of water is used.

(b) Water may be used to create a containment and impoundment facility for aesthetic purposes, provided the facility is not augmented thereafter from any ground or off-site surface water source.

(c) Water body augmentation is allowed, provided the water use is either authorized by a Water Use Permit specific to the augmentation activity or, in the absence of a Water Use Permit, the following conditions are met:

1. The water body is one-half acre in size or less;

2. The water for augmentation is withdrawn from a well with an inside diameter of the largest permanent water bearing casing of no more than 2 inches;

3. Augmentation must not occur if the water body is discharging offsite, except that augmentation may occur flush a pond a maximum of twice per year if the pond is not a natural water body nor part of part of a stormwater management system; and

4. Augmentation must not occur if the water body's water level is above the average water table condition for the site or minimum management level established for proper operation of the stormwater management system, whichever is lower.

Rulemaking Specific Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.171, 373.219, 373.223 FS. History–New 3-24-92, Amended 9-15-03,\_\_\_\_\_.

40D-22.401 Enforcement.

(1) through (2) No change.

(3) Irrigation of lawns and landscapes, as described in this Chapter, may be further restricted by local governments in response to a local water supply system concern. In the event any county or city within the District ~~endeavors to adopt adopts or implements~~ such local measures, the measures contained therein shall be at least as restrictive as those imposed by this Chapter and the county or city shall provide a draft ordinance to the District for review and approval for consistency with the requirements of this section at least 30 days prior to considering adoption of the ordinance. The ordinance must be adopted as approved. Once such an ordinance has been adopted, the county or city shall promptly notify the District of all local measures imposed and the effective implementation date. ~~Irrigation of established lawns and landscaping, as established above, may be further restricted by local governments.~~

(4) No change.

Rulemaking Specific Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.119, 373.171, 373.175, 373.219, 373.246, 373.603, 373.609 FS. History--New 3-24-92, Amended 9-15-03,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Karen Lloyd, Senior Attorney, 2379 Broad Street, Brooksville, FL 34604-6899, (352)796-7211, extension 4651

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: December 16, 2008

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 14, 2008