

Memorandum of Understanding

Florida Department of Environmental Protection

and

Florida Public Service Commission

The Florida Department of Environmental Protection (DEP) and the Florida Public Service Commission (PSC) recognize that water conservation and water reuse are key elements of Florida's long-term water management strategy. It is our joint goal and high priority to ensure that Florida's water and wastewater utilities provide safe and efficient treatment of water and wastewater while encouraging water conservation and reuse of reclaimed water. This memorandum of understanding (MOU) formally establishes the policies and procedures to be followed by the DEP and PSC to promote and encourage water conservation and reuse, and safe water supply and wastewater management services.

BACKGROUND

Drinking Water Program

The Federal Safe Drinking Water Act requires certain monitoring, testing, treatment, and reporting to ensure the quality of potable waters. The Florida Safe Drinking Water Act, contained in Chapter 403, Florida Statutes (F.S.), outlines the basic requirements for Florida's drinking water program. Chapters 62-550, 62-555, 62-560, 62-602, and 62-699, Florida Administrative Code (F.A.C.), contain specific requirements governing drinking water systems in Florida.

Domestic Wastewater Program

The Federal Clean Water Act and the Florida Water Pollution Control Act requires effective treatment and management of wastewater to protect the nation's ground water and surface water resources. Florida's wastewater management and environmental control programs are contained in Chapter 403, F.S. Specific regulations governing domestic wastewater management are contained in Chapters 62-528, 62-600, 62-601, 62-602, 62-604, 62-610, 62-611, 62-620, 62-625, 62-640, 62-650, and 62-699, F.A.C.

Water Reuse Program

The encouragement and promotion of water conservation and reuse of reclaimed water are established as state objectives in Sections 403.064(1) and 373.250, F.S.

The DEP, in association with the PSC, the water management districts (WMDs), and other state agencies, has developed and implemented a comprehensive reuse program designed to meet those objectives. The water reuse program policies and requirements are set forth in Chapters 62-4, 62-302, and 62-610, F.A.C, and Chapter 90-262, Laws of Florida.

Economic Regulation

A county may by resolution, pursuant to Section 367.171, F.S., designate the PSC as the economic regulator of investor-owned water and wastewater utilities.¹ For those utilities subject to its jurisdiction, the PSC establishes authorized rates and rates of return for investor-owned water and wastewater utilities pursuant to Chapter 367, F.S., and Chapter 25-30, F.A.C.

COMMON OBJECTIVES

The common objectives, as they relate to drinking water systems and domestic wastewater systems subject to regulation by the DEP and the PSC, are as follows:

1. To monitor drinking water treatment and distribution systems to ensure that safe and reliable water is produced and delivered in accordance with applicable rules and drinking water standards.
2. To monitor domestic wastewater systems to ensure the safe and efficient collection, treatment, and reuse or disposal of wastewater and biosolids.
3. To encourage and promote water conservation and the reuse of reclaimed water.
4. To foster water conservation and to encourage the use of conservation-promoting rate structures and consumer education programs.
5. To promote the continued economic viability of utility systems through rates that are fair, just, and reasonable.

¹ As of June 1, 2013, the PSC regulated investor-owned water and wastewater utilities in 37 Florida counties.

PSC RESPONSIBILITIES

The following is a general description of the roles and responsibilities of the PSC related to drinking water systems, water conservation, domestic wastewater systems, and water reuse. The PSC's jurisdiction is limited to economic regulation of investor-owned utilities and is effective in only some Florida counties. The PSC will offer assistance to the extent allowed by law and agency workload. The PSC agrees to implement policies and procedures necessary to administer the following duties:

Drinking Water, Domestic Wastewater, and Reuse Systems

1. Schedule required public meetings and hearings with regulated utilities and customers to discuss drinking water, wastewater, or reuse system projects and their impact on rates and inform the DEP of such meetings.
2. Work with the DEP and WMDs to develop and implement a complaint reporting and tracking system' to ensure all regulatory agencies are aware and taking appropriate actions when customer or citizen complaints relating to either drinking water or wastewater systems are made to an agency.
3. Review proposed rate structures for investor-owned water utilities within PSC jurisdiction to ensure that the rate structures are designed to promote water conservation.
4. Provide assistance to DEP on capacity development programs by working with utilities within PSC jurisdiction and with the DEP to strengthen efforts to ensure that water, wastewater, and reuse systems have sufficient capacity available. The PSC will provide to DEP a list of PSC regulated utilities by county. In addition, the PSC will notify the DEP of changes in regulatory status of current and new utilities under its jurisdiction, as well as changes in counties subject to PSC jurisdiction.
5. Monitor abandonment and bankruptcy proceedings for investor-owned water utilities within PSC jurisdiction. Inform the DEP of pending abandonment and bankruptcy cases.
6. Provide legal and technical support to the DEP in any related administrative hearings or legal proceedings, if an applicant for a DEP permit challenges the interpretation of Section 367.031, F.S.
7. Participate in interagency programs and working groups on subjects of mutual concern to the agencies.
8. Work with utilities within PSC jurisdiction and with the DEP to strengthen efforts to ensure proper operation and maintenance and to promote compliance with DEP permit requirements.
9. Assist the DEP and WMDs in the review of reuse feasibility studies for both the utility and its customers associated with the mandatory reuse program in Chapter 62-40, F.A.C., and other reuse-related activities of the WMDs in the counties within PSC jurisdiction. The PSC shall complete a timely review which will allow DEP and the WMDs to meet timeframes established by rule.

DEP RESPONSIBILITIES

The following is a general description of the roles and responsibilities of the DEP related to drinking water systems, water conservation, domestic wastewater systems, and water reuse. The DEP agrees to adopt and implement policies and procedures necessary to administer the following duties:

Drinking Water, Domestic Wastewater, and Reuse Systems

1. Notify the PSC of impending abandonment or bankruptcy cases involving investor-owned water and wastewater utilities and assist the PSC in such cases, as needed.
2. Work with the PSC and WMDs to develop and implement a complaint reporting and tracking system' to ensure all regulatory agencies are aware of and taking appropriate actions when customer or citizen complaints relating to either drinking water or wastewater systems are made to an agency.
3. Verify the existence of a certificate of authorization from the PSC before issuance of a construction permit for a new domestic wastewater or drinking water system for utilities subject to Section 367.031, F.S.
4. Participate in interagency programs and working groups on subjects of mutual concern to the agencies.
5. Attend PSC customer meetings, hearings for rate cases, and other proceedings involving investor-owned utilities and provide expert technical testimony when appropriate. This shall be done at the PSC's request, without the need for subpoenas.
6. After receipt of a reuse feasibility study required by Section 403.064, F.S., the Antidegradation Policy, or the Indian River Lagoon System and Basin Act, provide a copy of the reuse feasibility study to the PSC. This applies only to feasibility studies produced by investor-owned utilities located within counties regulated by the PSC.
7. Make final determinations on the adequacy of reuse feasibility studies. Comments made by the PSC staff on the financial aspects of these reuse feasibility studies will be considered by the DEP.

PROJECT COORDINATION

1. The DEP and PSC will each designate a liaison to coordinate communication between the agencies. The DEP Environmental Administrator of the Drinking Water Section will coordinate communications among and between the three DEP programs and the PSC liaison.

2. Routine exchange of information between the DEP and the PSC regarding water, wastewater, and reuse systems shall be through the designated liaisons to facilitate efficient exchange of information among relevant agencies.
3. The PSC's designated liaison in communication with the DEP's designated liaison will take the lead in the development of a citizen complaint tracking system. Once a mutually agreed upon system has been developed, the DEP and PSC liaisons will implement the recommended protocols of such a tracking system within the respective agencies.
4. The DEP and PSC liaisons shall communicate as necessary to address and review progress on the drinking water, domestic wastewater, water reuse, and any newly developing water resource utility programs in Florida and will attempt to resolve any issues that may benefit the respective agencies.

AMENDMENTS

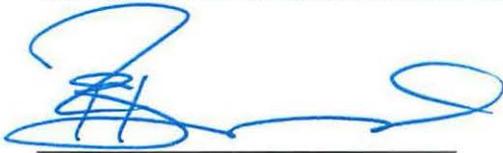
This MOU may be amended by mutual agreement of the DEP and PSC. It shall remain in effect until it is dissolved by mutual agreement among the agencies or terminated by an agency after giving 30-days written notice to the other agency.

PREVIOUS MOUs

This MOU supersedes the previous MOUs dated November 20, 1992 and September 13, 2001 between the DEP and the PSC. Upon signature of this MOU, the MOU dated September 13, 2001 will be null and void.

EFFECTIVE DATE AND SIGNATURES

This MOU will become effective after being signed by both parties.



Florida Public Service
Commission



Department of Environmental
Protection

8/18/13
DATE

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DATE